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# Intercollegiate Debates

(Volume VIII)

A YEAR BOOK OF COLLEGE DEBATING

OXFORD — KANSAS STATE AGRICULTURAL COLLEGE —  
WILLAMETTE — REDLANDS — UNIVERSITY OF CALIFOR-  
NIA — KANSAS WESLEYAN — EUREKA — RIPON — PI  
KAPPA DELTA NATIONAL CHAMPIONSHIP DEBATE —  
CALIFORNIA INSTITUTE OF TECHNOLOGY — UNIVERSITY  
OF BRITISH COLUMBIA

EDITED BY

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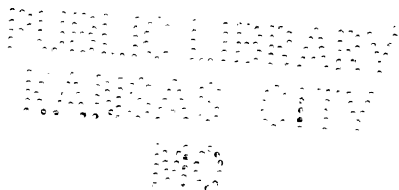
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## EDITOR'S FOREWORD

The present volume of Intercollegiate Debates is at the same time a resumption of the Old Series of Intercollegiate Debates published before the Great War and the initiation of a New Series. From eight to nine debates will be included in each volume, unless it shall be decided to include the year-book feature in an Appendix in succeeding volumes in which case one debate less will be given annually. The year-book of debating was omitted from the present volume on account of the necessity of editing this book from a foreign base, and on account of lack of time to collect and prepare the statistics. Should there be enough demand for the year-book it will be included in later volumes, and the debate public is invited by the editor to express its desire. A letter or card addressed to him at 814 Campus Ave., Redlands, California, will receive attention.

An introduction to each annual volume seems no longer necessary, yet a few things should be mentioned at the beginning of the new series. Debate conditions, methods, and customs have undergone considerable change since the old series was discontinued. An indication of some of these changes follows:

1. The Supremacy of the Debating Honor Society has arrived. For instance, the Pi Kappa Delta Na-

tional Honor Society chooses an annual debate question with the cooperation of many colleges outside of its membership who accept its leadership. This decreases considerably the number of subjects used annually, and increases greatly the number of debates on the subject chosen. It makes possible the scheduling of many more debates by each college as one subject is used for a large number of opponents, whereas the old system restricted the number of debates for each college because of the necessity of using many subjects. This new development makes the scheduling of trips and tours an easy accomplishment, as the same subject is debated widely enough to allow colleges to add interstate debates to their regular local schedules without a great deal of extra work in preparing new speeches. This means, of course, that Pi Kappa Delta has encouraged the trip or tour. It has done this in order to get a large attendance at its biennial conventions, and in doing so, merely seized upon a movement that was popular—upon an inevitable trend in the attitude of American colleges—to follow a national or interstate outlook rather than a local one. This is true also of athletics, as those who have been devotees of the intersectional football matches, the relay and track meets, and the Olympic try-outs will readily understand.

The leadership of Pi Kappa Delta in this matter has resulted in two forensic movements of interest: National Championship contests in oratory, debating, and speaking extempore; and, in Interstate or Province contests in the years when the National meet is

not held. The two movements are in reality one. Whether one question will continue to be used throughout the Provincial contests in the odd years remains to be seen. It is a question of whether local or provincial interest differs enough from the interests of the colleges desiring to make extended trips to cause a departure from the national subject. No college or group of colleges is compelled in any way to accept the national subject, and many other subjects are, in fact, debated. Often the same college uses several different subjects, but the tendency has been toward economy. A repetition of the same debate has had a bad effect upon the attendance at debating contests in some colleges, but this has not been a serious drawback as debating had for the most part lost the interest of large audiences long before the development mentioned here took place. Debating has subsisted upon the enthusiasm of the intellectual few rather than upon the popularity of the activity generally.

It will be a feature of Intercollegiate Debates to include the Pi Kappa Delta National and Province Debate Championships in so far as that is consistent with presenting timely debates upon subjects of general interest.

2. International Debating has arrived. The Oxford University tour of 1925 through the United States, the trips of various colleges to England for meetings with various English educational institutions, and the debates with Canadian colleges illustrate this development. It will be a feature of Intercollegiate debates to include such contests when possible.

3. The day of conflict of systems has arrived. The increased interest in debate, the trips, the international debates, reaction against championships in many leagues, have resulted in a cosmopolitan era. American colleges are adopting the English system of forum and open-discussion debates. No-decision contests are becoming frequent, and quite popular with colleges which were not satisfied with the old systems of judging or fell behind the procession in the art of winning. Considerable experimenting has been going on with new judge systems for debate, which is indicative of dissatisfaction with the old plan of three judges, and of a desire to get something more accurate and satisfactory.

It remains to be seen whether judgeless debates or a no-decision system can sustain interest in debating for an extended period. To the American colleges debating is an intercollegiate sport or contest—an intellectual struggle. To the English debaters it is a genial discussion with emphasis upon cleverness, wit, chop-logic and sophistry. To the American college student debating is a serious matter, an educational matter, an effort to present the best possible case from the point of view of knowledge of the question and of debating skill. To the English college student it is a form of amusement, has little or no educational significance, and can hardly be taken as seriously as bridge. It is to be doubted whether the effort to graft the English system upon the roots and trunk of the American collegiate sport of debating will prove successful. The instincts of the two countries are to

persist in differences, and this tendency will logically follow in collegiate and scholastic matters. Any features of the English system brought into America will soon be so adapted and changed that they will not long remain recognizable as English. However, the day of cosmopolitanism is here, and for a time there will be many methods and customs, and none that is standard.

A few words should be said concerning the colleges and universities represented in this volume.

First, *Oxford University*. The colleges at Oxford maintain a debating organization known as the Oxford Union. The men who have toured America representing Oxford in various debates are always graduates, and represent the union. My personal criticism upon their work is that the lack of training in public speaking in comparison with most American colleges is painfully noticeable. English educational institutions do not have departments of public speaking and do not afford training for their graduates which to an American seems to be a grievous oversight, a neglect of one of the essential things in personal equipment. The keenness of the English speakers in subtle reasoning and logic was also notable, and if their enunciation and powers of speech had been better developed and trained, would have been much more effective than it was. As humorists they were excellent, but not always superior to the American students, especially when there was an Irish-American on the platform with them.

*Kansas State Agricultural College* is one of the fore-

most Middle Western colleges in debate, has an excellent record, made a tour of the Pacific Coast and mountain states last year (1925), and needs no further comment.

*The California Institute of Technology* is the foremost technical institution west of the Mississippi River, and has an international reputation. Its debating work is not as strong as its technical standards because the men of the school do not have as much time for outside activities as the men of some other institutions have, and the engineers as a rule do not have aspirations as speakers. However, they do excellent work in debate as their contribution here will show.

*The University of British Columbia* has for several years been engaging in debate with Washington and Oregon colleges and undoubtedly will ultimately join the procession of the debating activity since they have begun relations with touring debaters. They have done excellent work.

The winning colleges of the Pi Kappa Delta championship contests need no comment. Their achievement speaks for itself, and indicates that their present standards in debate are high. The record of any college in debate shows ups and down as the different college generations pass. Certain colleges show steady progress and maintain a steady record of winning standards. *Southwestern College of Kansas* is one of this type. *Baylor College* is new in debate, and has made an excellent beginning. *The College of Emporia* has an uneven record showing considerable development, the same is true of the *Northern Teachers College* of



Aberdeen, South Dakota. However, it is newer to debate than the College of Emporia, but has made an excellent record.

*The University of Redlands* and *Willamette University* are perhaps the two strongest debating colleges of their size (in number of students) on the Pacific Coast. Their records for the last fifteen years show consistent ability and high standards.

*The University of California* at Los Angeles is new to debate, being a comparatively young institution. It has a record showing steady progress and is one of the strongest of large universities or colleges in debate on the Pacific Coast—that is, the class of institutions having 2500 or more students. That does not mean that it is stronger than the smaller colleges in debate. Its chief rivals are the University of Southern California among large institutions, and the University of Redlands among the smaller colleges.

*Kansas Wesleyan* has for many years maintained an enviable reputation in oratory and debate, and, although it has good and bad years in debate, enjoys a good prestige among the colleges of the Middle West.

*Eureka College* since 1910 has been one of the strongest small colleges in debate in Illinois and throughout the Middle West. It has an excellent record, and will no doubt maintain its leadership. It has been represented previously in Intercollegiate Debates.

*Ripon College* deserves a repetition of the things said of Eureka College. In addition it has achieved considerable reputation of recent years by tours of the East, and trips to the National Convention of Pi Kappa

Delta. It had one of the early chapters of this organization and shares with *Ottawa University* of Kansas the fame of being the birth place of the national forensic society.

Upon the whole the debates included in this volume are of high standard and compare to advantage with debates previously published. This fact seems to indicate that the art of debate has made progress during the interim between the publication of the old series of Intercollegiate Debates and the beginning of this new series.

E. R. N.

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## PROHIBITION ENFORCEMENT



# PROHIBITION ENFORCEMENT

## THE RIPON COLLEGE DEBATE

### *REPEAL OF THE EIGHTEENTH AMENDMENT*

The following speeches on the subject: "Resolved that the Eighteenth Amendment to the Constitution of the United States Should Be Repealed," were used by the Ripon College teams during the season of 1926 in various local intercollegiate debates.

In contributing the speeches, Professor Henry P. Boody, in charge of debate at Ripon College, wrote that the speeches were a stenographic report and that the rebuttal speeches were through some mistake lost or destroyed by the stenographer. The subject of Prohibition Enforcement, and of the Right or Wrong of the Prohibition Amendment is one of such public interest and concern at present, that it was thought best to break the rule of "Intercollegiate Debates" and include them without the rebuttal speeches.

**First Affirmative, Wilbert Herman  
Ripon College**

LADIES AND GENTLEMEN: At the outset, we of the affirmative, in opposing the Eighteenth Amendment to our federal constitution, do not hold ourselves before you as genial advocates of the joys of intoxication. We are not here to argue for the æsthetic hilarity which comes from imbibing too freely of beer and pretzels. Nor have we come to oppose prohibition from the

standpoint of the brewer's trust or the saloon-keepers union. We are, in fact, heartily agreed with the gentlemen of the negative as to the absolute desirability of temperance. Our contention is, however, that the Eighteenth Amendment, in attempting to do away with the evils of alcohol, has created instead a greater menace than that which existed before its passage. In so doing it has failed to accomplish the theoretical purpose toward which both sides of this debate are obviously in accord.

Your own common sense, ladies and gentlemen, judging from conditions you may have observed here in your own city or in the surrounding community, relative to the widespread violation and demoralization that has followed the enactment of the amendment, will bear out the statement of Fabian Franklin, formerly editor of the *Independent* magazine, who says: "The light-hearted contempt with which prohibition is being treated by millions of good citizens—citizens who are ordinarily law-abiding—is a phenomenon in the history of free institutions." Prohibition, Mr. Franklin summarizes, is undoubtedly the greatest economic, political, and social problem that faces America at the present time.

I should like to substantiate his statements with a diagnosis of conditions, as reported by official and unprejudiced authorities. The recent report of the Federated Council of Churches, for instance, which we shall have occasion to quote frequently in this debate because of its absolute honesty, shows the attitude of public opinion; for ninety out of one hundred



and seventy leading directors of great industries in this country oppose national prohibition; one thousand interviewed business men oppose national prohibition; and four hundred of the six hundred citizen-soldiers at Fort Ethan Allen oppose national prohibition. *Collier's* magazine, furthermore, conducted an immense survey recently of public opinion, by questioning two hundred sixty-four thousand typical American citizens. In answer to the question, "Is the law respected in your community?" over sixty per cent. of the citizens answered emphatically, "No!"

Mrs. Mabel Walker Wildebrandt, Assistant Attorney General, assigned to prohibition cases, has recently prepared a map to show the degree of enforcement in the various states. She points out in the *Current History* magazine that among nearly half the population of this country, thirty-one out of every hundred people actually break the prohibition amendment.

Out of this vast part of public opinion so obviously opposed, what about drunkenness? Arrests for this misdemeanor show a steady increase, in spite of the fact that the prohibition law is directed only against the sale, manufacture, and the transportation of commercial liquor, and not against drinking or home manufacture. Our opponents, therefore, cannot reasonably argue that increased arrests for drunkenness are due to increased enforcement, since the laws that make drunkenness a crime are the same to-day as they were before the Eighteenth Amendment went into effect; and furthermore, what better criterion can be had than this, that increased arrests indicate likewise an increase

in drunkenness. And even according to the Anti-Saloon League figures, there were eight hundred ninety thousand arrests for intoxication in the last year before prohibition as compared to one million four hundred thousand similar arrests in 1922. The Federated Council of Churches states that on the face of information gathered from one hundred eighty-five cities, total arrests for drunkenness were much higher in proportion to population in 1925 than at any time in a previous decade. The Moderation League states, according to figures gathered from chiefs of police, that in thirty-six leading Wisconsin cities arrests for drunkenness show an increase in 1923 over 1919 of eighty-two per cent.; and that forty-four cities in the United States of over one hundred thousand population show an average increase for drunkenness during that same period of over seventy-seven per cent. Police departments reported further that in four hundred and fifty-seven cities arrests for intoxication increased from two hundred fifty thousand in 1920 to five hundred sixty-five thousand in 1924. In regard to drunken automobile drivers, we find that, whereas the number of motor vehicles increased only one hundred thirty-two per cent. in five years, arrests of drunken drivers have increased three hundred fifty-four per cent. during the same period. Especially interesting, moreover, is the fact that, in one hundred three cities which were bone dry before the Eighteenth Amendment, arrests for drunkenness have increased from eighty-nine thousand in 1914 to ninety-seven thousand in 1924.

The cause of this increased drunkenness, according

to a writer in the *Forum* magazine, is due to the fact that "People to-day are drinking all sorts of hard liquors in the place of light wines and malts; and the amount of alcohol withdrawn to be denatured has actually trebled in the past three years." Thus, although the total amount of liquor consumed has no doubt decreased, people have turned to highly concentrated intoxicants which invariably result in drunkenness.

An even more important indictment of the Eighteenth Amendment lies in the laxity of punishment for violation. Our courts are hampered by a maze of legal technicalities through which the offender eventually escapes. A former president of the Illinois Central Railway System calls attention to the fact that out of the five thousand nine hundred arrests under the prohibition statute in one large city in 1923, only three thousand were held for grand jury; four hundred fifty were indicted; and finally, eighteen were convicted. Think of it, friends: only eighteen jail sentences out of almost six thousand arrests! And according to the latest Congressional Report, written by ardent prohibitionists, judges and juries throughout the federal courts of America refuse to convict one-third of the liquor violators. As Major Lynn C. Adams, Superintendent of Pennsylvania State Police, declares: "In many cases officers have secured evidence, have even secured indictments by grand jury, only to fail when the case was tried before a common jury where the agreement must be unanimous; for where twenty-five per cent. or more of a population is opposed to the en-

forcement of a law, a corresponding proportion is going to find its way into the juries." S. H. Church, President of the Carnegie Institute, states that there are now enough liquor cases pending in the City of New York to occupy the full time of all the judges for the next six hundred years, and that if the law were actually enforced, three thousand restaurants in New York City would be padlocked immediately, and the courts jammed for an impossible eternity. We can well imagine, ladies and gentlemen, what the condition in our courts would be if the thirty-one violators out of every one hundred citizens mentioned by Attorney Wildebrandt should be brought to trial: our entire system of justice would be disrupted with the certain neglect of other more serious criminal offenses.

The absurdity of the entire situation is shown by the fact that while Congress has raised its appropriation, during the last five years, from three million to nine million dollars annually, for enforcement purposes, violation has at the same time steadily increased.

In summary, ladies and gentlemen, my purpose has been to prove that public opinion is not behind this law, with the consequence that arrests for drunkenness with few convictions have resulted. My colleagues will explain the cause of this failure; and in the meantime, we request the gentlemen of the opposition to show us, not the tangible or possible results that may accrue from the prohibition amendment, but rather the concrete and measured benefits that have resulted during the five years that it has been in existence.

Second Affirmative, Harry Flower  
Ripon College

LADIES AND GENTLEMEN: As my colleague has indicated, there is existent in this country to-day a situation unparalleled in our history, a condition of affairs heralded by an unprecedented disrespect for one law, which has extended to all law; and this is in a large measure directly responsible for the great relapse in the moral fabric of the nation. It shall be my purpose this evening to substantiate the arguments of my colleague, by demonstrating that the government in passing the Eighteenth Amendment acted contrary to the accepted principles of political science. This amendment, therefore, has not only failed to accomplish its purpose thus far, but must fail in the future.

Since the infancy of civilization, ladies and gentlemen, man has been eternally seeking that form of government which will best assure his permanent happiness. And there appear to be two theoretical, antagonistic extremes of attainment which have been advanced for centuries. One is that perhaps best expressed by Hobbes, who would have, "absolute authority vested in a figurative tyrant, as the people are incapable of governing themselves." The other and opposing theory is that of the great political anarchist, Godwin, who stated, "Each man should be wise enough to govern himself, without the intervention of any political restraint. Since government in its best estate is an evil, let us have as little of it as possible." His-

tory shows, however, that neither of these theories when applied in fact could long maintain itself; and at the formation of our government, therefore, we find these two theories in conflict, from which was devised our compromisal constitution establishing a democracy with a directing government acting with the complete consent of practically the whole people.

And yet, according to Arthur Hadley, President Emeritus of Yale University, who foresaw the dangerous trend of this new democratic idea as far back as 1901, "Our new republic, conscious of its power and honesty of purpose, undertakes a vast number of regulations in social and economic fields which have shown many instances of failure because of the insufficient amount of public opinion supporting them." The great danger seems to lurk in the fact that a democracy is likely to mistake the wish of a measured majority as indicative of the wish of the whole people, and thus swing to the tyrannical extreme—the tyranny of a scant majority over a protesting minority. Rousseau, himself, the great French philosopher and father of modern democracy, was explicit in stating that the "wish or vote of the majority does not necessarily indicate the will of the people." In this tendency lies the insecurity of democracy, for as President Hadley continues: "A democracy, in order to be successful in what it undertakes, must be managed with great caution; it should confine its undertakings to those matters of policy which have commended themselves to the whole people; and should endeavor to restrict its action to those fields where there is a sufficient con-

sensus of opinion and a degree of acquiescence on the part of the minority to render a preponderance of force unnecessary."

And so in 1919, even though a majority of our political representatives ratified the Eighteenth Amendment, there was an intense opposition on the part of a minority, an opposition which has refused to be subdued. To-day many authorities doubt that even a measured majority of the whole people are respecting this amendment. But even though we grant the existence of such a majority, the prohibition law certainly does not harmonize with those sound principles of good government which insist that the wish of the minority be respected. Our opponents may argue, of course, that no law ever has the respect of every citizen. But in the case of successful laws, violators are so few, so scattered, that they constitute but a very small portion of the entire population and the respect of practically the whole people remains behind the law. In the case of the Eighteenth Amendment, however, my colleague has shown that there is no mere handful of violators, but at least a vast minority of otherwise conscientious and law-abiding citizens who constantly violate this single law at every opportunity.

The reason why public opinion is not obviously whole-hearted behind this law may be easily shown. The custom of drinking has existed for thousands of years while the prohibition movement has been alive hardly a century, during which time millions of Europeans have migrated to this country bringing with them

the inherent Old World regard for moderate drink. John Bascom, Professor of Political Science at Williams College and an ardent advocate of temperance, states that "customs govern the masses of men, with whom reason is not an immediate and sufficient authority." The conscience of the people against a custom is formulated slowly and we find that many privileges which are injurious to the individual, are not condemned by society. We know that the use of coffee or cigarettes, for instance, or over-indulgence in eating, are all injurious privileges; yet it would be absurd to advocate legislation against them. On the other hand, what has rendered murder a rare exception instead of a frequent social menace? "It is not the existence of statutes which makes murder a crime; it is the growth of public opinion which makes the individual condemn himself and his friends as well as his enemies for indulgence in that propensity," says President Hadley. And so in the use of alcohol: while public opinion was gradually developing against the age-old menace of drink, we are all well aware that it was by no means sufficiently developed to justify legislation which attempts to abolish abruptly a privilege which man has long been accustomed to consider one of his inherent rights. Even to-day a man may stand up before society and drink a glass of wine without being condemned thereby as having acted contrary to the accepted rules of society, as he would if he had committed murder or burglary.

Now, the gentlemen of the opposition may further argue, that although this law is not yet succeeding, it



will nevertheless gradually compel the people to respect it. Such a contention is, as we have shown, utterly contradictory to those sound principles of democracy which recognize that practically the whole people, not a mere part of them, must sanction the law before it can safely be enacted. Ladies and gentlemen, those tyrannical governments which have fallen, have been those very governments which did exactly as the gentlemen of the opposition wished: they enacted legislation with the initial opposition of permanent public opinion. Professor William MacDougall of Harvard University, the greatest living authority on the psychology of government, states that in any progressive and highly organized nation: "Law is always one or two generations behind public opinion of the past rather than the present generation." Such a statement shows in itself, ladies and gentlemen, that this amendment can never succeed because it came before rather than after public opinion was ready for it. Psychologists on group action are almost unanimously agreed that when legislation acts contrary to the will of practically a whole people, their spirit of rebellion is likely to rise up; and instead of creating final regard for legislation, there follows only disrespect and possible governmental decay.

In closing, it appears obvious, therefore, that by this sudden deviation from the gradual progress our country was making toward temperance, we have created a situation which not only has not made us a temperate people, but has added, through a great disregard for law, the germ of disruption in our democracy.

**Third Affirmative, Theodore Brameld**  
**Ripon College**

LADIES AND GENTLEMEN: The gentlemen just preceding me has devoted much time to an admission of the general failure to enforce the Eighteenth Amendment, since he has told you of the need for changing the present system of enforcement by a system of civil service control. This, he says, would do away with political corruption, but you will remember, ladies and gentlemen, that he offered no facts whatsoever to prove that the admitted failure of the amendment is due to that corruption. On the other hand, my colleagues have explained that failure is due rather to the refusal of the people themselves to abide by a law which denies what many of them consider an inherent privilege; and therefore civil service—in so far as it would strengthen enforcement—would only antagonize the great minority further. My opponent appears somewhat inconsistent in the arguing that enforcement is succeeding, first by pointing out that smuggling by way of sea is decreasing. In answer to that, we would remind you of the thousands of miles of border between the United States and Canada practically unguarded. As to the internal success of the law, we can rely only on our own knowledge of the great amount of illicit hard liquor consumed everywhere, actually more in quantity, according to the *North American Review*, than before prohibition, and due to a great extent to the very decrease of beer manufactured pointed out by my opponent.

I should like to reiterate our contention that violation of the Eighteenth Amendment is increasing from year to year, due to its disregard for those sound principles of democracy that recognize that either practically the whole of public opinion must be respected in validating legislation, or else rebellion is almost certain to follow.

My purpose this evening shall be to explain how the people happened to deviate from the otherwise normal progress our democracy was making, and to enact such an important measure prematurely. As you remember, of course, the Eighteenth Amendment was passed during the most abnormal crisis in our history—the World War; and it is to this abnormalcy that we attribute the sudden acceptance of what has since turned out to be theoretically tyrannical in its tendency.

For over a hundred years, the temperance movement had been gradually evolving toward universal acceptance by the people, until by our entrance into the war in 1917, twenty-three of the forty-eight states, and fifty-four of the one hundred twenty millions of people had, according to the Anti-Saloon League, voluntarily adopted prohibition laws. Within a few months of our declaration of war, however, the United States Senate passed the Eighteenth Amendment for the whole country, followed quickly by the House of Representatives and fifteen states before the Armistice was signed. Twenty-one other states, with previous prohibition laws, naturally ratified as soon as their legislatures convened, so that the amendment was actually

a part of the Constitution within two months after the Armistice, while all the states were still swayed by a patriotic desire to help the soldiers yet in the service of their country.

Although such a sudden sweeping of the nation is certainly phenomenal, it is not our contention—as is so often heard—that temperance organizations “put over” the Eighteenth Amendment while two million soldier-voters were fighting in France. We do maintain, however, that those sixty-six millions of people, and those twenty-five states which had not been educated to believe in temperance by 1917, sanctioned it because they thought prohibition would help win the war, not because their conscience had been suddenly converted to the ideal of temperance. In the interests of an inspiring patriotic cause, they neglected to consider their future permanent attitude.

In fact, within three months of our entrance into the war, we find the Sixty-Sixth Congress considering a food bill which provided that to “meet the requirements of the government in the manufacture of munitions and hospital supplies, no person shall use alcohol in any form for beverage purposes.” President Wilson originally favored this bill very highly, but later opposed it, perhaps because prohibition societies showed other than a temporary patriotic interest in its passage. Thus, in order to assure war-time prohibition, the one alternative was to go through the procedure of amending our constitution, over the vetoes of the President and the Supreme Court.

To illustrate what the sentiment of the country was

in regard to the desirability of war-time prohibition, six million women petitioned President Wilson in 1917 "to prohibit the further waste of food-stuffs in the production of wines and malts during the period of the war."

The Anti-Saloon League, furthermore, records the patriotic sentiments of the various states. Thus Alabama advised an emergency prohibition measure to enable us to concentrate our money-power in the interests of the war. Arizona wanted war-time prohibition to save grain, such as barley, corn, rice and hops.

California suggested it to save vineyard and fruit-orchard labor; Colorado, to save the coal used by breweries; the District of Columbia, to save money for liberty bonds and thrift stamps; Vermont to save railroad facilities. Rhode Island wanted war-time prohibition to save man-power so that factories could run full time. And Wisconsin, our own state, with a burst of patriotic hysteria typical of the period, said, "Beer is the kaiser's mightiest ally, and it fights on American soil. It hinders American victory, delays world peace, and may pave the way for the overthrow of democracy. Sobriety," Wisconsin cried, "is the bomb that will blow kaiserism to kingdom come."

Many great cantonments throughout the country, such as Custer, Grant, Sherman, and Fort Benjamin, circulated propaganda among the people appealing for war-time prohibition because of the demoralizing effect of alcohol upon the high-strung soldiers and sailors.

Now, the negative, arguing from the moral standpoint, may say that all the reasons advanced by the

food bill, the women petitioners, by the states, and by the army camps, would apply to permanent as well as to war-time arguments in favor of prohibition. As we explained at the outset of this debate, however, the affirmative too, agrees thoroughly with the eventual desirability of temperance. But the point we make is that a large part of the people obviously were not similarly convinced, for instead of their being concerned with the permanent advantages of temperance, they wanted to help win the war by saving money-power, man-power, shipping space, railroad space, grain, syrup, sugar and coal. They wanted to prevent a demoralization which might have hampered the fighting capacity of the American soldier.

If the same spirit of cooperation and sacrifice existent during the war could have been maintained permanently, ladies and gentlemen, we would not be arguing to-night for the repeal of the Eighteenth Amendment. But just as the people once endured war taxes, fuelless laws, wheatless laws, and sugarless laws, laws which have naturally been dispensed with since the end of the war, so a large part of them no longer see sufficient reason for sacrificing the injurious but nevertheless age-old privilege of intemperance. And, as their patriotic fervor has decreased, there has been a parallel increase in the use of intoxicants, now of a kind usually high-powered and injurious. "The result is to be expected," says Judge H. S. Priest, of the United States Courts, "since war is practically a suspension of all principles of civil government."

Any evolution toward a desirable goal, ladies and

gentlemen, must come gradually. We have shown that the Eighteenth Amendment was not the next logical step in the evolution toward temperance, since fully half of the people had not been convinced by 1917. We must, therefore, remove this great obstacle, in order to revivify those evolutionary processes which were ignored, and which now lie dormant and helpless. We must return to the status which we would have by the simple elimination of the Eighteenth Amendment, so that the state and federal governments can bring into operation one or more of the many possible methods of dealing with what obstacles should remain. They could, for instance, incorporate the Swedish system of private monopoly, which the Forum Magazine claims has reduced drinking forty per cent. They could adopt the Canadian system of government warehouse distribution which has done away almost entirely with bootlegging. They could use all the state prohibition machinery so effectively applied in past years. They could adopt a nationally regulated local option system. And they could do away entirely with the old saloon through high licenses and strict hygienic laws. Since, however, it is only the function of the affirmative to deal with those evils resulting directly from the Eighteenth Amendment, we cannot analyze these systems of control; and we enumerate them merely to show that the government would not be helpless. Above all, we advocate every possible means of temperance education to win over that large part of public opinion which is as yet obviously undecided as to the right or wrong of temperance—those same

means of education which had so successfully won over fifty-four millions of people by 1917.

In summarizing the two cases thus far, then, my opponents have first attempted to prove that temperance is necessary because of this machine-age, a fact which we too recognize as desirable and therefore question the method rather than the principle. They have told you of the great prosperity and the decrease in crime in our country to-day, laying most of this Utopian condition to prohibition, yet not taking into consideration post-war inflation, foreign markets, labor conditions, or other economic factors just as responsible. They have told you that the law itself has reasonably succeeded, but they have not overthrown our first argument to the effect that drunkenness is increasing; in fact, they have in another breath admitted the law's failure by advocating a radical change in the existing system of enforcement. We ask them again, therefore, to point out to us the concrete direct benefits of the Eighteenth Amendment rather than intangible possibilities. And we ask them to dispute our second and third arguments to the effect that political theorists themselves predict failure because the amendment was passed as a result of a war-time, temporary rather than a permanent public opinion.

First Negative, Orville P. Deuel  
Ripon College

LADIES AND GENTLEMEN: You have heard that public opinion does not support the Eighteenth Amend-



ment because reports from sections of the nation, and the results of straw votes indicate its unpopularity. Contradicting this testimony are the results of three national primaries and three national elections showing a larger majority supporting the amendment in each succeeding case. Also this law was passed by a larger majority in Congress than any preceding amendment. We might say, then, that the law does have the support of public sentiment because the best medium for judging opinion, the elections, show an ever-increasing support.

If the gentlemen had pursued further the report of Mrs. Wildebrandt, from which he quoted, he would have found a decrease in prohibition cases in 1924, which she calls an encouraging feature.

Our opponent has informed us that arrests for drunkenness have increased. He bases his contention on statistics from a few cities. In the summary of the report of the sub-committee of the committee on the alcoholic liquor traffic of the House of Representatives, Sixty-eighth Congress, it is stated that "Arrests for drunkenness have decreased throughout the country. This is doubly significant when the fact of increased vigilance in arresting intoxicated persons is considered. Before the advent of prohibition, a drunkard was not arrested unless he was disorderly or obnoxious. At the present time a person showing the effects of intoxication in a public place is arrested."

You have been told that the situation is absurd, but when the many huge distilleries lying idle and the removal of the tempting corner saloon are con-

sidered it becomes evident that this amendment is not as absurd as the gentlemen would have you believe. So let the gentlemen show that conditions to-day are worse than before the law was adopted.

The Eighteenth Amendment to the constitution of the United States forbids the manufacture, sale or transportation of intoxicating liquor for beverage purposes within, the importation thereof into, or the exportation thereof from the United States, and all territories subject to the jurisdiction thereof. All beverages containing as much as one-half of one per cent. of alcohol by volume are defined as intoxicants by the Volstead Law. The amendment was ratified by the states in January, 1919. The Volstead Law was passed by the Senate in October of the same year.

One hundred years ago prohibition in the United States was represented by a haphazard and irregular system of state and local control. Local option was the next development. During this period the community decided for itself whether or not it would have prohibition. As this system proved inadequate, the states adopted prohibition legislation. It is apparent then, that national prohibition is the logical culmination of this movement in the United States.

The purpose of the Eighteenth Amendment is greatly misunderstood by many of the people of this country. They are disappointed because it has not achieved absolute and entire prohibition of all intoxicating beverages. As a matter of fact, in this undertaking the United States has honestly tried to write a high ideal into our organic law and to secure its acceptance in

the organic life of a great democracy. This statement is substantiated by Charles W. Eliot, President Emeritus of Harvard University, when he says: "The goal of the prohibition amendment is the bringing up of a generation of children who have never themselves had acquaintance with alcoholic drinks, and have been instructed at home and in the school in personal and community hygiene as a means of promoting public and private welfare. This goal of course is not to be reached in one or five years." It is folly to return to zero in this undertaking because we have not succeeded one hundred per cent. in six years.

The prohibition situation might be compared to the adoption of the constitution and the legal struggle between nation and state down to the civil war. The emancipation proclamation was issued over sixty years ago and the negro problem is not yet solved. The anti-trust laws were on the statute books over ten years before they were enforced by President Roosevelt. Would our opponents say that this law should have been destroyed during the first six years of its existence? The prohibition law has been on our statute books for only six years and no one can deny that it has met with much success. Human nature changes slowly. Can six years alter a national custom? Are habits and appetites reborn over night? Will a majority vote instantaneously remove the desire for red wine? The Eighteenth Amendment was adopted to fill a need of the nation. The people never are ready for the untried, the drastic and the difficult.

The present social and economic complexities of the

United States make prohibition necessary. This is an age of machines, not of alcohol. Prohibition is necessary for public safety and industrial efficiency. Since this is a machine age it must be a dry age. This dry régime which has overtaken the United States is no more sudden than the advent of the steamboat, the telegraph, electricity, and the automobile. Because they are, it is; it is their logical and essential consequence and condition.

The critics of the Eighteenth Amendment, influenced by the propaganda of the wet forces, see only that which the law has not yet accomplished and fail to consider the real good done by the law. Of course, after a short trial of only six years it seems difficult to draw any set conclusion concerning the success or failure of the amendment. Students of the question conclude that the many improved conditions are resultant from this dry legislation. We do not claim, however, that these beneficial steps resulted solely from prohibition. But we do maintain that the amendment was an important factor in the production of these changes.

The Federal Council of Churches in its survey of conditions relative to the amendment under discussion, finds that "the extent of present violations of the law no one knows. Conditions in various states differ widely. The total amount of liquor consumed has manifestly been enormously reduced."

The abolition of the licensed saloon is an almost universally admitted social gain. One of the most impressive results of the investigation made by the Fed-

eral Council of Churches was the negligible character of pro-saloon sentiment in the country. It is obvious that the disappearance of the licensed saloon has been a distinct benefit and that its return is not desired.

No one would attempt to deny that there is much crime to-day. But what has prohibition to do with it? We can confidently say that we would not hear so much about crime were it not for prohibition. The "wets" continually associate one with the other because it makes excellent propaganda. The American Bar Association in a ten-year survey of crime finds that crime has followed the same trend. During this period the crime problem has been aggravated by the aftermath of a stupendous war and the advent of the automobile. But in the face of these adverse conditions the trend of crime has remained the same. The last federal census of prisoners made in 1922 proves the statement of the Bar Association to be a conservative one. The census shows a decrease of 5.8 per one hundred thousand of the prison population since 1917.

The tremendous curtailment of liquor consumption has made for an improved economic status, the extent of which is hard to judge. But we cannot fail to be impressed by the continual growth of savings accounts and the increased home building activity during the depression period of 1920 and 1921. Social workers give impressive testimony that living conditions among clients of social agencies are better than before 1920.

Now, ladies and gentlemen, we wish to insist once more that we do not claim ideal success for the amendment. We do maintain, however, that this legisla-

tion has accomplished much good and is a step in the right direction.

In conclusion, permit me to recall the issues as I have developed them. I have shown that the Eighteenth Amendment is the natural product of industrial and social progress and has attained reasonable success during its short period of operation.

**Second Negative, Henry Christofferson**  
**Ripon College**

LADIES AND GENTLEMEN: The preceding speaker has contended that the Eighteenth Amendment is unsound from the standpoint of governmental principle. He supports this assertion by claiming that the rights of the minority have been damaged. Yet, ladies and gentlemen, let us consider our government as it is to-day. We agree with the affirmative that our government is not perfect and that individual rights are often taken away. But it is the only government that we know of that can come anywhere near to guaranteeing the fundamental principles the gentlemen have been talking about. Our government is based upon a great principle, *majority rule*! And the affirmative have failed to show us any government that can take the place of majority rule. Until they can correct the so-called evils of majority rule it seems that we must accept our constitution and its principles.

Second, it has been argued that the public was not ready for the Eighteenth Amendment. But, ladies and gentlemen, are the people ever ready for any legisla-

tion? There is always opposition to any change. So the gentlemen must define just when the people would be ready for the Eighteenth Amendment if they persist in that contention. At this point it would be well to call your attention to the fact that the Eighteenth Amendment was accepted by forty-five out of forty-eight states and received the largest majority in both houses of Congress ever given to any constitutional amendment.

In continuing the argument for the negative it would be well to bring to mind what we have shown thus far in this debate. We have shown that the Eighteenth Amendment has had reasonable success in spite of the determined opposition of its opponents. Those who object to the amendment do so because they fail to realize the possibilities for improvement in our enforcement system. My purpose shall be to investigate the future of this legislation and to determine those possibilities.

Ladies and gentlemen: The enforcement of this law is criticized and is said to be a failure because of certain corrupting influences that are prevalent in every other function of the government. We know that we can solve the problems that arise under any new system only by time. Do we not know from past experience that in order to get the highest type of efficiency and integrity from the guardians of the law we must have assurance that they are competent? Despite the fact that competency has not been assured under the Eighteenth Amendment, improvement in conditions resulting from the rather unsatisfactory

enforcement of the law is a guarantee of what more efficient enforcement will accomplish. The law has never had a fair chance; by exempting enforcement officers from the operation of federal civil service laws the Volstead Act turned them all over to political patronage and made enforcement a political game. Thus we can see why the prohibition bureau has not reached the point of highest possible efficiency.

Lincoln C. Andrews, the new head of the prohibition department, is dealing effectively with the problem. But doubly to ensure the quality of men in office we anticipate a change to the civil service program proposed by Senator Sterling, Chairman of the Senate Civil Service Committee, whereby every candidate for office will be placed under the civil service laws and picked for his fitness. No one claims that to put enforcement officers under civil service rules would make them all incorruptible saints, but we have the assurance that no grafting politician will stand between an honest official and his duty. Therefore, with civil service reform among enforcement officers, we have every reason to believe that there will be a material improvement in the enforcement of the Eighteenth Amendment.

With what success are we dealing with the enforcement problem? Let us first consider the one great source of supply. The greatest volume of illicit liquor comes by way of the sea. Secretary Mellon stated in his annual report December 21, 1925: "The coast guard is making steady and gratifying progress in



breaking up the smuggling of liquor into the United States. Actual concrete results have been brought about in the prevention of smuggling by the guard." He said: "There is a marked diminution in this illicit enterprise.." Since the coast guard has been so successful in keeping liquor out of the country, as indicated by this official report, we can foretell the time when the amount of liquor smuggled into the country will be negligible.

Let us now examine the internal condition. There is no longer any legal manufacture of alcoholic drinks, and liquor withdrawn from bonded warehouses is to be used only for medical purposes. By our new system, only competent physicians may obtain permits to withdraw liquor for legitimate purposes. Many industrial alcohol permits have been revoked and reissued only when the manufacturers could show that they were not violating the law. We are assured of cutting down the illegal sources of supply and stopping the leakages in the legal uses of alcohol. It is evident, then, that liquor withdrawn from bonded warehouses will thus be reduced to a minimum.

Let us now consider the illegal manufacture of alcoholic beverages. According to Hugh H. Fox, secretary to the United States Brewers' Association, the home brewing phase of the situation is of minor importance, because the hop merchants' report (September 1923, page 138) shows that 6,000,000 barrels of beer is all that could be manufactured from the hops produced at the present time as compared with the sixty-six mil-

lion barrels of beer in 1914, a thousand per cent. decrease. With such a decrease it is easy to see that beer is no longer a problem.

You may ask what about hard liquors? Moonshine takes their place at the present time. We can safely say that the consumption of moonshine is small because it is uncertain and the people do not care to experiment with it.

Ladies and gentlemen: Let us point out that our educational policy has not ceased. Formerly, under a system which the affirmative desire, the facts could not be impressed because the child passed the corner saloon going to and from school. He wondered how his government could license an institution which the same government taught to be wrong. But what is being done to-day? We have not stopped our system of education, but we have aided it by prestige of a national law.

When the opposition suggest the repeal of the Eighteenth Amendment they must show us that resulting conditions after the repeal will be better than those of the present time. Certainly, ladies and gentlemen, we do not wish to return to a condition which shows no improvement over the present system. The gentlemen of the affirmative imply that the repeal of the Eighteenth Amendment will bring about a condition that will be better than under the present amendment. However, we must have assurance that resulting conditions will be an improvement. We must not plunge haphazardly into anything unless we know that conditions will be satisfactory if not better. Will the

gentlemen of the affirmative tell us just what they intend to substitute for the Eighteenth Amendment?

In summary, ladies and gentlemen, we have shown that the Eighteenth Amendment has made reasonable progress; that the personnel of the enforcement bureau can be improved by placing the officers under civil service rules; that the enforcement of the Eighteenth Amendment is effective in spite of numerous obstacles; and, finally, that our education program aided by this law is the best solution of an educational policy. Once more, we must ask the affirmative just what will the condition be if the Eighteenth Amendment be repealed?

**Third Negative, John H. Dillon**  
**Ripon College**

**LADIES AND GENTLEMEN:** The preceding gentlemen has just made an elaborate enumeration of the factors which caused the states to ratify the Eighteenth Amendment. He has shown how the consumption of intoxicating liquor causes economic losses. Allow me to point out that the majority of those same economic losses are also felt in peace time and therefore only argue more strongly for a national prohibition law. Moreover he has completely forgotten the great sentiment for prohibition which gradually grew up until it was felt by Congress in 1916 and that body gave the Eighteenth Amendment the most decisive majority ever received by any constitutional amendment.

But thus far in the debate the negative has shown,

first, that the Eighteenth Amendment has met with reasonable success. Then, second, we have investigated the future of this legislation and have demonstrated that its defects are being remedied, thus indicating the probability of future improvement. To conclude the constructive case of the negative, I will show further, that the Eighteenth Amendment is right in governmental principle.

The opponents of national prohibition have constantly maintained that the amendment was thrust upon the people of the United States without their consent in an abnormal period of war-time excitement. Ladies and gentlemen, the Eighteenth Amendment was not ratified by the necessary number of states until January, 1919, the year after the close of the World War. But, more important than this, the people's acceptance of the amendment does not appear to have been a sudden decision caused by the abnormal war psychology. In fact, the law was the culmination of the great prohibition sentiment which has been developing and growing for generations in this country. Since that memorable year when the Pilgrim Fathers landed on our coast, this educational movement against the evil of the liquor traffic was carried on until the World War further proved the necessity for some prohibitory legislation. Not the World War but the evil of the liquor traffic denounced by this prohibition sentiment caused the enactment of the Eighteenth Amendment to our constitution.

The claim that the people must be prepared by education for any legislation before it is made a law

sounds reasonable enough. But now, friends, to pierce beyond this entirely abstract assertion, let me ask you a question.

How is it possible to determine that point at which the people are said to be prepared for any law? What would be the necessity for a law, if the people were so prepared for it that they would unanimously accept it without protest or violation?

Furthermore, every important change in our social structure must damage the interests of some individuals who derive profits from traffic in the prohibited evil. Consequently, there will always be strong opposition to any vital social step and violation will result to an appreciable degree. It seems, then, that the affirmative desire merely to postpone enactment of such legislation until some uncertain time when they say that the people will be prepared, a time which has never arrived in the history of any law. Again, ladies and gentlemen, was this legislation thrust upon us without our consent? We have two steps which must be undergone before a law becomes an amendment to the constitution. First, the act must be passed by a two-thirds majority of both houses of Congress; and second, it must be ratified by three-fourths of the states. We of the negative do not deny that this system has its faults, but faulty as this process may be, it is the most direct form of popular rule provided for by the constitution. My friends, the Eighteenth Amendment was a legitimate result of this, the most democratic function of our government. But upon further examination we find these startling facts: this amendment

received an overwhelming majority of seventy per cent. of both houses of Congress, a far greater majority than any other amendment ever attained. Moreover, forty-five out of the forty-eight states actually ratified the law, when only thirty-six would have sufficed. From these facts the negative feels justified in its conclusion that the prohibition amendment resulted from a sane expression of the will of the people as is best provided by the constitution of the United States.

Finally, I wish to consider the amendment as it affects personal liberty. The critics of prohibition have been loud in their cry that by eliminating the liquor traffic the rights of the individual are destroyed. Yet, practically all authorities on government agree that there is a principle which operates in any government, known as the police power, which declares that when a private right interferes with the rights of a group, the private right ceases to exist and the welfare of the group is supreme. Charles W. Eliot, President Emeritus of Harvard University, states while speaking upon prohibition, "All discussion of personal liberty has no meaning, for one of the most fundamental principles of organized society is that it has the right to invade personal liberty when the safety or the general improvement of the community is at stake." I will not burden you with a long temperance lecture, for the evils of the liquor traffic are universally conceded. As Chief Justice Taft says, "This array of immoral and vicious effects of the free manufacture and sale of liquor upon the community can leave no doubt that the curtailment of personal free-

dom is small compared with its benefit to society." Since the manufacture and the sale of intoxicating liquor is detrimental to the welfare of the public, then, the prohibition amendment is a legitimate exercise of the police power and hence is sound in governmental principle.

In reviewing the case of the affirmative we find that they first claim that there is a great amount of violation of the disputed law. But, my friends, we asked them to show that conditions are worse to-day than they were before prohibition times and they failed utterly to do so. On the other hand we have offered facts indicating that, although the amendment has not achieved ideal success, it has made reasonable progress.

Then, secondly, they held that the amendment is contrary to governmental principles. But we have shown that we have a government which we admit is not perfect, but is nevertheless the best we know. Thus we see no better way to amend our constitution than by our regular majority rule, and the affirmative have failed to show how our government could be improved so as to protect the rights of the minority better than is done at the present.

Then finally, the affirmative showed that the amendment was passed in a time of war hysteria but they failed to dispute our contention that the major cause of its adoption was the great nation-wide sentiment which finally culminated in the national prohibition law.

In conclusion, therefore, the negative opposes the

repeal of the Eighteenth Amendment; first, because it has had reasonable success; second, its retention offers great possibilities; and third, it is right in governmental principle.

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## CHILD LABOR AMENDMENT





CHILD LABOR AMENDMENT

MEN'S CHAMPIONSHIP DEBATE,—PI KAPPA  
DELTA CONVENTION

*COLLEGE OF EMPORIA VS. NORTHERN  
STATE TEACHERS COLLEGE (SOUTH  
DAKOTA)*

Sixty-four colleges entered teams in the debate tournament of the Pi Kappa Delta Convention, begun at Colorado Agricultural College, Ft. Collins, Colorado, about March 26, and completed at the Convention in Estes Park, Colorado, Thursday, April 1, 1926. According to the rules each college entered two teams, either team was prepared to debate either side, and each college had to be defeated twice before elimination. This necessitated a large number of contests and preliminary rounds. The problem of judging was terrific and the strain on the contestants great. The survivors for the finals were the colleges whose debate is presented here. The College of Emporia team won the finals and was awarded the championship cup and medals.

The question was stated as follows: Resolved, that the constitution of the United States be so amended as to allow Congress to pass legislation regulating Child Labor.

The debates were taken by shorthand stenographer and revised and corrected by the debaters from manuscripts and notes. The speeches were collected by Professor Alfred Westfall, Professor of English at Colorado Agricultural College, and National President of Pi Kappa Delta Forensic Honor Society, and contributed to this volume in behalf of the debaters.

COLLEGES MET BY THE COLLEGE OF EMPORIA IN THE  
TOURNAMENT

1. Grand Island—Grand Island, Nebraska.  
College of Emporia won 3 to 0 with negative.
2. Culver—Stockton, Missouri.  
College of Emporia won—critic judge—with negative.
3. Bethany—Lindsborg, Kansas.  
College of Emporia won—critic judge—with affirmative.
4. Morningside—Sioux City, Iowa.  
College of Emporia won—critic judge—with negative.
5. Kansas City General Chapter—Kansas City, Missouri.  
College of Emporia lost 2 to 1, with negative.
6. William Jewell—Liberty, Missouri.  
College of Emporia won—critic judge—with affirmative.
7. Eureka College—Eureka, Illinois.  
College of Emporia won, 2 to 1, with negative.
8. Central College—Missouri.  
College of Emporia won, 3 to 0, with affirmative.
9. Northern Teachers—Aberdeen, South Dakota.  
College of Emporia won, 3 to 0, with affirmative.

COLLEGES MET BY NORTHERN STATE TEACHERS  
COLLEGE

1. Northern State Teachers College, *affirmative* vs. Oklahoma Baptist University, lost.
2. Northern State Teachers College, *affirmative* vs. Cotner College, won.
3. Northern State Teachers College, *negative* vs. Southwestern University, won.
4. Northern State Teachers College, *affirmative*, vs. Western Union College, won.
5. Northern State Teachers College, *affirmative* vs. Pittsburg State Teachers College (Kansas), won.
6. Northern State Teachers College, *negative* vs. Northwestern College, won.
7. Northern State Teachers College, *negative* vs. Eureka College, won.
8. Northern State Teachers College, *negative* vs. Kansas State Normal (Emporia), won.

9. Northern State Teachers College, *negative* vs. College of Emporia, lost.

First Affirmative, Orlo Choguill  
College of Emporia

The affirmative propose to give Congress the power to regulate Child Labor. By Child Labor we mean the working of children at an immature age and under harmful conditions—conditions that interfere with their future physical, moral, and mental development. We contend that this is not a question of morals but a question of method, and we advocate that Congress should be empowered with the right to regulate this work. The fate of the past two laws shows such control can come only through a Constitutional Amendment.

In the first place it is necessary to review the previous nineteen amendments to see whether we are breaking a precedent or following traditional procedure in advocating this amendment. The first ten amendments, commonly called the Bill of Rights, presented a situation which the individual states could not handle, because it was beyond their jurisdiction, hence it was given to Congress to control. The eleventh and twelfth amendments dealing with the election of President and altering our judicial system were given to Congress to deal with because they were outside the power of the state. We find the thirteenth, fourteenth and fifteenth amendments dealt with the situation which had precipitated the nation into a civil war.

Because the states failed in their attempts to solve these problems the federal government was forced to remedy them. If you take the more recent amendments you find the sixteenth authorizing the income tax was an economic problem which the states could not handle. Likewise the seventeenth and nineteenth, dealing with political problems which the states could not meet, were turned over to the federal government also. Prohibition presented a social situation which the states attempted to remedy for one hundred years, but at their failure this, too, was given to the federal government because it was beyond their power to remedy adequately. We are only following in the steps of precedence already established when we give over another situation to the federal government, because, we maintain the states have proved unable to handle the Child Labor situation efficiently.

We shall attempt to show three things—first, that Child Labor is a serious problem in our nation to-day; second, that the states are failing to meet the need; and third, that the federal government promises a more effective remedy for the situation than the states are providing.

Let us take the first point. When we examine the 1920 census, we find for the first time in history that during this decade there was a decrease of forty-seven per cent. in Child Labor. At first glance this seems to be negative evidence but upon further examination we find that for the first time in history that there was a federal law in force. My colleague will show that it was responsible for the decrease which we perceive at this

time. However, of the 1,060,858 children that were employed in 1920, 280,000 children between the ages of ten and fifteen, were employed in the mines, factories, mills and other industries. We conclude that this labor was harmful, for, in West Virginia we find in one county examined, all children between the ages of ten and sixteen years that were employed in similar industries showed upon medical examination physical or mental incapacity—in 97 out of 100 cases—due, the examiners said, to the harmful conditions under which they labored. Increasing state laws had failed to solve their problem.

Had there been a continued decline in Child Labor since 1920, we would yield our point, but in New York alone 11,000 more children were employed in 1924 than in 1923. Mississippi shows an increase of 1200 last year, and the American Federation of Labor in 1925 estimated that there were 2,000,000 children harmfully employed in the United States. Moreover, we find that in states where there was an apparent decrease this decrease was not due to state efficiency, for example in Rhode Island the state department, in their own works, attributes the decrease to the absence of open saloons—a federal regulation—mark you—not efficiency.

Sixty-one per cent. of those employed in 1920 were employed in agriculture and twelve per cent. of these, in industrialized agriculture; since this census was taken in January 1920, imagine, if you will, how many more must have been employed in the summer months. Contrary to supposition, we find industrialized agricul-

tural labor comes under the category of harmful Child Labor, for a medical examination of 7,000 Colorado children reported twenty per cent. physically incapacitated by their work in the beet fields. In Michigan, seventy per cent. of the children examined were shown to be deficient mentally and physically, due directly to the work they were doing in Industrialized Agriculture. Our opponents cannot show in a single instance where the states have attempted to meet this situation. The states are powerless to meet a new growing need. A new cycle of Child Labor has begun that only uniformity of law and enforcement can adequately meet.

Besides industrialized agriculture is confined to seasonable industries. Since it is seasonable it invites migratory labor. In 1925 the Great Western Sugar Company imported from Texas, 18,000 laborers, of these 18,000 five in each family were found within the ages of harmful Child Labor. They were scattered throughout the beet fields. The general passenger agent of the Baltimore-Ohio Railroad reports 3,000 child laborers transported over his lines last year; Miss Grace Abbot records that 3,000 children left Maryland for the shrimp canneries of the southeast; 1,000 left Pennsylvania for the cranberry bogs of New Jersey; 3,200 children were found in Michigan to be of migratory families, and in Colorado twenty per cent. of the 7,000 children examined were of migratory families. It is beyond the power of the state to supply a remedy for situations involving two or more states.

They cannot legislate beyond their boundaries. The only solution lies in federal uniformity.

We admit and advocate that Child Labor is a local as well as a national problem. All industry is centered in various localities. Only three per cent. of California's children were employed in 1920. As high as twenty-four per cent. were at work in the southeastern states. The New York Herald for March, 1924, gives the story of a New England manufacturer who was moving his mills into the south in order to take advantage of cheap Child Labor, and compete with mills of the north. We have at hand a list of fourteen manufacturers of Massachusetts alone, who since the federal law was declared unconstitutional have built mills in the south to take advantage of the cheap labor. We see then, that instead of infringing upon state rights, federal regulation, in reality, will protect them from interstate competition. And, since the Child Labor problem has local aspects, it demands a federal solution.

The decrease in Child Labor from 1910 to 1920 is causally related to federal regulations. Child labor has increased since 1920. The states have proved powerless to handle migratory labor, the resultant of the new problem of industrialized agriculture. The present status only promotes interstate competition. Since we are following precedent when we grant the federal government power to regulate problems the states cannot control, the affirmative feels justified in advocating an amendment granting Congress power to control Child Labor.

**Second Affirmative, John M. Brewster**  
**College of Emporia**

The gentleman who has just left the floor has admitted the migratory phase of the Child Labor problem, but has attempted to discount this aspect of the situation by saying that no causal relationship exists between states of low and those of high standards. He stated that federal regulation would be no solution of the migratory character of Child Labor, since if a federal minimum standard were adopted the states would then pass legislation raising their standards of Child Labor above the minimum standard required by the federal law and therefore migratory Child Labor would exist as it did before the enactment of federal regulation.

Now in consideration of this contention let us listen to the wording of the question: Resolved, that Congress should be granted power to regulate Child Labor. If the affirmative show that Congress will demonstrate itself capable of remedying the employment of those children under harmful conditions, the effectiveness of federal regulation will have eliminated the harmful working of children. This argument advanced by the opposition stands or falls upon whether or not the affirmative show the practicability of federal regulation of Child Labor. In a moment I will give due consideration to the practicability of the proposed solution. It is my purpose at this time to show that the federal government will be effective in eliminating the evil aspects of Child Labor. The first basis of such a contention is



found in the results of the previous federal laws. In regard to this statement our opponents have endeavored to discount its value by alleging that no causal relationship existed between the previous federal Child Labor laws and the Child Labor decrease occurring in the years between 1910 and 1920. But in this regard let us examine the evidence. We find those federal laws were not only effective from the standpoint of penalties inflicted, but from the standpoint that they aroused antagonism on the part of American citizens against the evil of Child Labor. We hear this testimony from the state of Alabama, which at the time of the operation of the previous federal laws, had a higher Child Labor standard than was required in the federal law itself, and yet Child Labor enforcing officials state that the federal law was of vital assistance to them in the enforcement of their own state laws.

That the previous federal laws were effective in the creation of a public opinion antagonistic to Child Labor is true in the north as well as south. From the state of Maine we receive this testimony: "The action of the supreme court in declaring the first federal law unconstitutional was a decided set-back to the enforcement of Maine's own Child Labor laws. The two federal laws were of vital assistance in the enforcement of our own state laws." From the state of South Carolina, we received this testimony: "Although we objected to the two previous federal Child Labor laws upon the basis that they were an infringement upon state rights, nevertheless we must admit that they were most beneficial to us in the enforcement of our own state laws."

From the state of Arkansas we hear this most significant testimony: "Before the enactment of the first federal law the Child Labor office very seldom received an inquiry regarding the standards of Child Labor as they were formulated by the statutes of that state. But as quickly as the federal government enacted its law relative to Child Labor, that same official's office was almost deluged with inquiries from industrial establishments within the state saying that they did not wish to violate the provisions of the federal government." Again, the American Federation of Labor sent a questionnaire to some twenty states asking that they give a statement as to how effective were the two federal laws in the reduction of Child Labor. Replies were rendered by seventeen states and all of them stated that the federal laws were vital factors in the decrease of Child Labor within their state bounds. Therefore, upon the testimony from the Child Labor enforcing departments of various states, the affirmative hold that they are justified in maintaining that a most important causal relationship existed between the effectiveness of the previous federal laws and the decrease of Child Labor in the years between 1910 and 1920.

This evidence shows in addition to this causal relationship that the federal government would in all likelihood prove effective in the regulation of Child Labor under the provisions of the proposed amendment. This evidence, therefore, does much to substantiate the contention of the affirmative that the federal government will prove itself effective in the elimination of the mi-

gratory phase as well as other aspects of detrimental Child Labor.

Now in the second place, the federal government has not only proved itself effective in creating a public opinion antagonistic to Child Labor but it has demonstrated its practicability from the actual infliction of penalties upon Child Labor law violators. This is shown from the fact that between 1919 and 1922 more than \$26,000 in fines were turned over to the federal treasury as a result of the rigid enforcement of the last national Child Labor law.

Moreover the national government has proved effective in legislating upon subjects whose character is similar to that of Child Labor. We refer, for example, to the federal regulation of interstate commerce. Now, our opponents hold that we cannot legitimately conclude that the federal government will effectively remedy this Child Labor evil upon the premise that national control has efficiently regulated interstate commerce. They endeavor to uphold this contention by saying that the federal government has proved itself impractical in this field since vital problems still arise within the realm of interstate commerce. Bear in mind that this method of refutation on their part admits that we may reasonably conclude that the federal government will prove effective in remedying Child Labor if it can be shown that it has satisfactorily regulated interstate commerce. With that in mind, let me call your attention to the fact that the system of interstate commerce, though one of the most complex due to all the factors

involved, is perhaps one of the most efficient in the world. The affirmative feel it is but a fair statement to say that, according to the consensus of the American people and publicists, the federal regulation of interstate commerce is one of the supreme achievements of our government. The condition of the debate at this point then is this: the negative have admitted the legitimacy of our analogy, we have shown the truth of the analogy, and hence the negative have virtually admitted that the federal government will prove as effective in the elimination of Child Labor evils as it has been in its regulation of interstate commerce.

Now from this point, we proceed to the contention that because the federal government is effectively regulating interstate commerce, it thereby has a most powerful resource at its disposal for use in the prohibition of the migratory phase of the Child Labor evil. The significance of this contention is seen when considered from the following point of view—namely, the supreme court under the chief justiceship of John Marshall declared that all passengers on common carriers were interstate commerce and Congress has full control over that subject. Now if an amendment were granted permitting Congress to illegalize Child Labor it might then forbid child laborers from migrating to conditions of harmful employment.

A second field of effective federal regulation, similar in its social aspects to that of Child Labor, is white slavery. Congress took over the regulation of this problem, interstate in character, and at the meeting of the

last World Commission on White Slavery at Geneva this decision was given: "White slavery has been virtually eradicated from the United States under national regulation." The affirmative believe, therefore, that it is only reasonable to conclude that the federal government proving effective in one field of social and economic welfare will prove itself effective in the regulation of problems bearing a similar character.

In concluding this debate for the affirmative, it has been our endeavor to demonstrate that a serious Child Labor problem exists, that the states cannot remedy the situation, and that, due to the expansion of industry in Child Labor employing establishments, conditions have resulted in a greater demand for Child Labor and hence the seriousness of the Child Labor situation is gradually increasing as has been indicated by statistical evidence. As a remedy to this national menace to the youth of our land, we have proposed that the solution of this problem be placed in the hands of Congress. We believe it will be a practical solution because we find the federal government in its miniature scale of Child Labor regulation was vitally effective in arousing a public opinion antagonistic to the Child Labor evil and in actual punishment of Child Labor law violators, and that in other situations having a character similar to that of Child Labor the federal government has proved a satisfactory solution. Upon these contentions the affirmative believe the Constitution of the United States should be amended to give Congress power to regulate Child Labor.

**First Affirmative Rebuttal, Orlo Choguill**  
**College of Emporia**

Our opponents base their entire argument upon the contention that there is not sufficient need to justify changing our constitution. They maintain; first, that the situation at present is not serious: and second, that the federal government would fail to remedy it. We must decide at this time what Child Labor is. They have accepted our definition, still they continually ask us for the standard which the federal government would set in regulation. A standard cannot be set at the present time. History shows that the first Child Labor laws provided that ten hours was not too long for a child to work. The states themselves have raised their standards year by year. The question as stated grants Congress the right to regulate Child Labor; Congress, then, has the power to make its own definition and set its own standards. It would legislate as the need arose.

Our opponents say that there is not a sufficient need for any change because Congress could not legislate wisely on the matter. They turn to the District of Columbia for example. Congress does not regulate the affairs of the District of Columbia. Three commissioners directly control the district, and they are not under immediate Congressional control. Moreover, the opposition overlooks the fact that the last year the federal law was in effect, there was a decrease in Child Labor in the District of Columbia of 30 per cent., showing that federal laws actually did remedy the situation.

They assert, however, that federal laws are ineffec-

tive and will be ineffective for two reasons. First—they argue that laggard states could not be raised to a minimum standard, then they go on to show that there are no laggard states. Their inconsistency here defeats their point. Second—That new problems could not be corrected and that the states can meet any new problem. The problem of industrialized agriculture is a new one, yet the states have not met it. The Labor Commissioner of Wyoming, a state which our opponents maintain needs no Child Labor law, laments the fact this month that there is now a Child Labor problem arising in the beet fields and his office is unable to meet it. We are presented with a new and serious situation. We see new problems making laggard states. Our opponents assert that federal improvement is a vague assumption on our part. We call their attention to last year's U. S. Bulletins which show investigations proving an increase of violations of state laws over the years the federal laws were in effect. Arkansas shows an increase of one hundred and eighteen violations. Last year there were over four thousand violations in New York. An investigation of the Child Labor Committee shows eighty per cent. of the children working illegally in a portion of the state of North Carolina. Time permits no more examples, but we find when we go to the court records in New York City that nine out of ten Child Labor law violators convicted are given suspended sentences. Hence we see that the state laws are not effective, and since violations increase after federal laws were declared unconstitutional we conclude that federal laws were effective.

Our opponents attempt to deny that Congress could have power over industrialized agriculture. In the last session of Congress, a senator introduced a bill to amend the proposition so that agriculture could not be regulated by federal law. The law as it stood was carried by a large majority showing Congress intends to include such matters under its jurisdiction.

We maintain this evidence which shows the serious situation at hand, meets the argument of the opposition when they advocate that an amendment is not justifiable on the grounds of federal inefficiency.

**Second Affirmative Rebuttal, John M. Brewster  
College of Emporia**

At this point of debate three major contentions of the opposition are worthy of discussion. First, it has been a major argument of the negative that in order to justify the proposed amendment, the affirmative must indicate what specific laws Congress will enact in carrying out the trust implied in the amendment. But the weakness of this contention lies in the fact that such a requirement is contrary to every single precedent set up by the previous nineteen amendments. For never have the proponents of an amendment found it necessary to point out what specific forms of legislation, what laws Congress will pass as a remedy of the situation involved. Rather to justify their plea for an amendment before the bar of the American public, it has only been necessary for them to show that a problem existed beyond the power of state solution, and



that on the other hand Congress possessed the resources to remedy the evil at issue, itself, and was possessed of the desire to remedy the problem were it only granted that privilege by the American people. Therefore, in the light of precedent the affirmative do not believe they have to fulfill the requirements of the negative but rather to show that Congress has the ability to correct the Child Labor evil and has the desire to perform that service. In taking this position the affirmative is supported by nine years of precedent and opposed only by the good judgment of the opposition.

The second major contention of the negative is that if Congress were granted power to regulate Child Labor, the situation would result in detrimental destruction of the balance of legislation. They advance the proposition that Child Labor is correlated with other phases of childhood welfare and the federal government, in order to regulate Child Labor, must regulate these other phases and that for this necessity the proposed amendment makes no provision. Let us consider their argument at this point in detail. First, they maintain that poverty is the cause of Child Labor and that an effective solution of the Child Labor situation would involve the elimination of poverty and this the federal government would fail to accomplish. But in this regard we must bear in mind that during the period of the operation of the two previous federal laws poverty decreased on an average of ten per cent. throughout the entire nation, which fact would seem to show that federal regulation of Child Labor not only reduced the numbers of child laborers but was also accompanied

by a significant decrease of poverty. Again, they have endeavored to show that education and Child Labor are related and that Child Labor cannot be regulated without the corresponding regulation of education on the part of the national government. In regard to this contention the affirmative concurs, but let us see the argument from this point of view—from 1910 to 1920 the states increased their educational facilities over one hundred per cent. with the corresponding increase of enrollment. So the proposition of balanced legislation presents this perspective. The educational welfare of the child is being adequately cared for by the state. And so far as poverty is concerned we find that that situation tends to decrease concurrently with the federal regulation and, furthermore, the states are caring for the poverty situation of childhood by their general care of the poor and the enactment of Mothers' Pension laws. Various phases of child welfare are being exceedingly well supervised by the state with one exception, and that exception is the working of children under harmful conditions. This situation, the affirmative has endeavored to show, is beyond the control of states and could and would be remedied by the federal government were it given the permission. Therefore, this is our reply to the argument of balanced legislation, that whereas all phases of child welfare related to the work of the child are being remedied by the state, the child would receive all desired conditions for wholesome development if only one more thing were done, and that is, permit federal regulation of Child Labor.

The third contention of the opposition is that in order to justify an amendment the affirmative must show that federal laws when enacted will be enforced. In reply to this demand, we call to your attention that the previous federal laws when in operation were highly effective from the standpoint of various state testimonies, and the actual infliction of penalties. The excellent showing of these laws indicate that the federal government can and would enforce its Child Labor enactments.

In conclusion, may I add one word relative to the problem of need:—we have shown that a serious Child Labor problem exists to-day in various industries, but particularly is this true of Child Labor in industrialized agriculture. The evil is here making enormous increases annually. The 1920 census indicated that seventy-two thousand were engaged in this kind of work, and in 1925 this amount according to the American Federation of Labor has increased to approximately two million. Not a single state regulates Child Labor in this field. A crisis is at hand. The states are failing. The federal government judged by the evidence submitted will remedy the situation, avoid the crisis at hand by protecting the future manhood and womanhood of our nation.

**First Negative, Ben Simmons**  
**Northern State Teachers College**

The gentleman who has just left the floor has endeavored to show that Child Labor is a national prob-

lem. He described to you the evils of Child Labor as the affirmative believe them to exist, and then said that federal regulation would better remedy the situation than state control.

Since the gentlemen demand Congressional action, we wish to ask them first: what standards do they propose to have Congress enact to remedy this enormous problem which they believe exists; and second, what proof have they that Congress will enact under the proposed amendment the standards which they consider necessary to cope with the great problem to which they refer?

The gentleman also mentioned migratory labor as one of the evils of the present situation which demands federal control. But Ladies and Gentlemen, let me point out, that he has established no connection between the fact of migratory labor on the one hand, and the fact of low standards in certain states on the other hand. He has proved no causal relationship between these two sets of facts. That the two are coincident proves nothing. You know that in all states, migrations would occur if the standards of the states were high or low, since they are due, not to low standards in particular states, as the gentleman has declared, but to seasonal industries demanding laborers at certain times of the year. If, as the gentlemen say, the low standards of certain states are the cause of these migrations, then if Congress does provide a uniform minimum law under the proposed amendment, we would still have migration to those states which have the lower standards, whether it be fourteen, fifteen, or eighteen years. In

order to use this argument the gentlemen must establish some causal relation between migrations and low standards in regard to Child Labor.

Again, the gentlemen are committing a fallacy when they argue that federal control will be more effective than the present state control. In order to prove this they point to the decrease shown in the 1920 census over the 1910 figures upon Child Labor, as showing the effectiveness of the former two federal laws. But again they have shown no causal relationship between the two facts. Two federal laws were passed, one in 1916, and the other in 1919; in 1920, there was a decrease of forty-seven per cent. shown in Child Labor over 1910, and the gentlemen have assumed that there was a connection between the two, that the former was the cause of the latter, but they have failed to prove this causal relationship. What do I mean by causal relationship? I might say that last year one hundred Italian families migrated into South Dakota—later we had a serious epidemic of mumps. The one might relate to the other, but it can establish no connection. They assumed a connection between these other two sets of facts, but did not prove it. The fact is, a great many other factors entered into the situation, besides the two federal laws, which might have caused this enormous decrease. First, the second federal law was in effect only seven months before the census was taken, a period of time hardly sufficient for creating an effective enforcement machinery. Second, the great industrial depression which succeeded the war brought about a large part of this decrease. Third, the federal govern-

ment enforced these laws almost entirely through the help of the state inspectors and officials, and if there was a decrease, surely some of the credit should go to the state officials. Finally, the state standards had improved almost one hundred per cent. between the years 1912 and 1920. Does it not seem logical that these improved state standards could have brought about this decrease without any help from the federal laws?

Why, Ladies and Gentlemen, these gentlemen attribute miracles to federal statutes. Think of it! A federal law in force but seven months before the census was taken, and they point to a fifty per cent. decrease in ten years, and attribute it to this law. Our experience does not teach us to expect such enormous reforms from any laws, state or federal.

Now, we of the negative are as much opposed to the exploitation of children to their detriment as are the opposition. This debate is not a question of whether or not children should be exploited to their detriment, but rather whether or not the constitution should be amended to give congress the power to regulate Child Labor. In other words, this debate is not one of condemning the detrimental exploitation of children, but rather one of justifying this proposed solution.

Let us first consider some of the common arguments advanced in favor of the proposed amendment. First, the fact that there are children gainfully employed does not justify the amendment. The affirmative must show us that these children are employed to their detriment and then they must show us definitely how fed-

eral legislation under the proposed amendment would remedy the situation.

Second the fact that children are injured in industry cannot be presented as a justification, since this is a problem for safety legislation. Third, the fact that a large number of children are not in school is not a problem for Child Labor legislation, but rather one for compulsory attendance laws. Finally, the opposition cannot justify the amendment on the basis of interstate competition and abuses, since the amendment would not remedy the situation. If Congress should merely provide a uniform minimum standard and the states would be permitted to legislate above and beyond this minimum, diversity of standards and interstate abuses would still continue under the proposed amendment.

Upon what grounds, then, can the amendment be justified? There are only three possible justifications upon the basis of what Congress might do to better the Child Labor situation as it exists at present.

*First*, that Congress would raise the standards of some states commonly called laggard in Child Labor legislation.

*Second*, that Congress might raise the present generally accepted standards of all the states throughout the country. These are the only grounds on which the proposed amendment might be justified; but they are not statements arbitrarily laid down by the negative. They are the logical issues in this debate, on the basis of what Congress might do to better the Child Labor situation in the United States.

Let us consider the first of these and see if the amendment could be justified on the ground that Congress would bring up the standards of the so-called laggard states. Before we can determine whether there are any laggard states, we must find a definite standard by which to judge them. The leading nations of Europe, such as Germany, Great Britain, Norway, Switzerland, and six or seven others, have accepted a fourteen year age as a wise and practicable Child Labor standard. The International Labor Conference held in Washington, D. C., in 1919, under the auspices of the League of Nations, recommended a minimum working age of fourteen years and a sixteen year minimum for mines and quarries. Both of the federal Child Labor laws of 1916, and 1919, set fourteen years as a minimum age, with sixteen years for mines and quarries and night work. Since our opponents demand Congressional action, we feel that they can accept these standards which were endorsed and created by the Congress itself.

Now, when we compare the standards of the forty-eight states with these which have been accepted as wise and workable, we find that almost without exception they measure up to these standards, except in those states which are not confronted with a Child Labor problem. All except three states forbid work in industry under fourteen years, and one of these, Florida, permits work under fourteen only in stores. The other two states, Utah and Wyoming, are not industrial states and have no Child Labor problems. In 1920, there were only one hundred and eighteen children em-



ployed in Wyoming and seven hundred and sixteen in Utah, in all industries except agriculture, under the age of fourteen years. On the basis of percentage, according to the 1920 census, there are almost twice as many children working in non-agricultural occupations in the District of Columbia than in either Wyoming or Utah, and let us remember that Congress legislates and enforces all laws for the District of Columbia.

When we investigate the age for working in mines, we find that thirty-two states have a sixteen-year minimum and these states include all of the mining states except one, namely Michigan. Michigan has a fifteen-year minimum, and as is shown by the 1920 census, Michigan has no Child Labor problem in her mines, since in the entire state, only seventy-four persons under sixteen were in any way connected with the mining industry. Would it not be the extreme of folly to pass legislation to cope with a problem that does not exist? Take South Dakota with only two boys under sixteen connected with its mines—do you suppose that South Dakota should clutter its statute books with superfluous legislation to cope with Child Labor in mines?

In dealing with the problem of night work, again, we find that all the states with a problem come up to the sixteen-year minimum set in the federal laws. Only five states do not have a sixteen-year minimum for night work. But why should such states as South Dakota, Utah, Nevada and Texas forbid night work when no problem exists in these states? Not one of these states possesses industries which would create a problem in night work among children.

The affirmative are not presenting a wise and constructive plan. They are merely demanding superfluous, needless legislation on Child Labor in states that have no Child Labor problem.

The second possible justification for the proposed amendment is that federal laws would be more effectively enforced than state laws. But this is merely a vague assumption without definite proof.

Neither can the affirmative prove that the decrease shown in the 1920 census was due to the second federal law, since as I have already pointed out, many other factors entered in, and they have not shown a causal relationship between the law and the decrease.

But the strongest substantiation for the contention that federal laws cannot be as effectively enforced as state laws comes from men prominent in prohibition enforcement. Only within the last few weeks, General Lincoln C. Andrews, head of federal prohibition enforcement, made the startling statement that the United States government had not and would not be able to enforce prohibition and that the various states would have to pass laws and set up machinery to carry out the eighteenth amendment. Emery R. Buckner, United States Attorney for the City of New York, supported Andrews in these statements. If the federal government cannot enforce prohibition, why should we believe that it could better enforce Child Labor laws?

Wherein, then, lies the justification for this unnecessary amendment? In the first place, Congress could not bring up the standards of the so-called laggard states, since all the states with a Child Labor problem come

up to those standards which the states, the nations, and even Congress, have accepted as wise and workable.

Neither could it be justified on the ground that federal laws are more effectively enforced than state laws, since this is a vague assumption without definite proof.

My colleague will consider the third possible justification—namely, that Congress might raise the present generally accepted standards of all the states.

**Second Negative, William Gruhn**  
**Northern State Teachers College**

Let us first of all consider some of the arguments presented by our opponents. They contend that Congress should regulate Child Labor because of the migration of child laborers, which they say exists among the various states. But they only pointed out instances of migratory Child Labor in agriculture. Congress has passed two Child Labor laws in the past and neither one touched Child Labor in agriculture. Congress failed to deal with this problem in the past, what reason have we to believe that it will regulate the migration of Child Labor in agriculture in the future?

Our opponents further assume that this migration of Child Labor is caused by low standards in certain states. But they have failed to show a causal relationship between migratory Child Labor and low Child Labor standards. Merely because children migrate from one state to another does not show that this migration is caused by the low Child Labor standard in some of the states. As a matter of fact, we find migra-

tion of labor both among adults and children in every seasonal occupation. Agriculture is a seasonal industry. Children will go out to work on farms in the summer months just as adults migrate to follow these seasonal industries. How could we differentiate between children migrating because of low standards and children migrating in order to follow the seasonal industries?

Our opponents state that Congress would regulate migratory Child Labor because of its power to regulate interstate commerce. But Congress already has the power to regulate interstate commerce. If migratory Child Labor comes in this category why does Congress not regulate the migration of children at the present time? Why amend the Constitution when Congress already has power over migratory Child Labor?

Our opponents further contend that Congress should be given control over Child Labor because twelve per cent. of the children employed in agriculture are engaged in industrial agriculture, which is very harmful to children. But in neither of the previous federal Child Labor laws did Congress regulate Child Labor in agriculture in any form. If it did not include this form of Child Labor in the laws of 1916, and 1919, what reasons have we to believe that Congress will regulate it at the present time?

The affirmative must justify the proposed amendment on the basis of what Congress will do. They cannot merely point out that certain conditions exist and then say that Congress should assume control of the problem because of these conditions. They must show us what Congress will do to improve these condi-

tions, and in order to show this, the affirmative must show us what standards Congress would be likely to pass. Only by creating higher standards could Congress in any way remedy any Child Labor condition. Our opponents must give us some definite evidence that Congress will create certain standards before they can justify the amendment.

According to Table VI of the volume on "Children in Gainful Occupations" of the fourteenth census of the United States, there is a greater percentage of child laborers under fourteen years of age employed in non-agricultural industries in the District of Columbia than in any state in the Union, except Florida. We find one and one-tenth per cent. of the children under fourteen years of age in the District of Columbia engaged in non-agricultural industries. Now Congress regulates and enforces all laws for the District of Columbia. But if Congress cannot control the Child Labor situation in the District of Columbia, what reason have we to believe that it can remedy the conditions in the states? The states have dealt more effectively with the problem in their own territory than Congress has been able to do in the small territory of the District of Columbia.

We have pointed out that the affirmative must justify the proposed amendment on the basis of what Congress will do. Congress might do one of three things. First, it might raise the standards of the states commonly called laggard in Child Labor legislation. But we pointed out that there are no laggard states, on the basis of whether or not they really have a problem. Second, the amendment might be justified on the ground

that federal laws would be more effectively enforced than state laws. But we showed that this is merely a vague assumption without definite proof. Finally, Congress might generally create higher Child Labor standards throughout the United States. But what proof have we that Congress would take such action even if it would be wise and practicable to do so? Both of the previous federal Child Labor laws set fourteen years as a minimum working age with sixteen years for certain dangerous occupations. We pointed out that these standards are practically equivalent to those now in effect throughout the United States.

But even if Congress did pass higher Child Labor standards and leave to the states the responsibility of providing for the poverty stricken, establishing schools, and creating compulsory education laws, it would only bring about an enormous problem of unbalanced legislation on child welfare with its disastrous results.

But let us first come to a clear understanding of what we mean by balanced legislation. We know that when we pass any piece of legislation we must always consider the related problems. For instance, if we pass a compulsory education law, we must balance this with legislation providing schools and educational facilities. If we pass a law requiring normal school training of all teachers, we must balance this legislation by providing normal schools to train those teachers. If we pass a code of criminal laws, we must balance this with legislation providing prisons and penitentiaries. If our city commission passes legislation to pave certain city

streets, it must balance this with legislation providing for a sewage and water system in those streets. Several years ago when Congress passed the restrictive immigration law it was forced to balance this law with one providing return transportation for those foreigners who were not admitted to the United States.

Now in dealing with Child Labor, balanced legislation is even more necessary than in these instances, I have cited. First of all, we cannot ignore the problem of poverty relief in connection with Child Labor. According to the federal Children's Bureau, over forty per cent. of the children under sixteen years who are working in Boston, went to work because of poverty. Raymond G. Fuller, who was formerly Publicity Director of the National Child Labor Committee, and who is a very strong advocate of the proposed amendment, admits that, "from a quarter to a half of our working children had to go to work for economic reasons."

As Raymond G. Fuller says: "A raising of the Child Labor standards should be accompanied or preceded by provisions for poverty relief." But how could we even hope to maintain such balanced legislation on this problem if Congress did control Child Labor, while forty-eight different states would be expected to provide for the poverty-stricken as they must do at the present time?

What would you think of a man who ordered an automobile and told the dealer he'd let some of his friends pay for it? Yet the affirmative want Congress

to order our boys and girls to stop working. But if we ask who is to support them, the answer can only be, "Let the forty-eight different states do it."

But if Congress raises the Child Labor standards, besides providing poverty relief, we would also have to provide schools and educational facilities to keep these boys and girls from pure idleness. Joseph Lee, President of the Playground and Recreation Association, and a leader in child welfare work, says that "To exclude a child from work without providing him with a school is to decree that he shall grow up in enforced idleness." But it is the states and the local governments and not Congress that provide our educational legislation. And what assurance have we that forty-eight states will provide schools and educational facilities at the same time that Congress raises the Child Labor standards?

But in addition to providing schools, we would also have to provide compulsory education laws, since many boys and girls will not go to school unless they are compelled to do so. According to the federal Children's Bureau, over twenty per cent. of the children under sixteen working in Boston went to work because they were discontented with school. Raymond G. Fuller goes so far as to say that, "More than half of our working children left school because somehow or other they did not like school." As the *New York World* says, "A government which forbids a child to go to work must at the same time send him to school." We can only maintain a balance between our Child Labor standards and compulsory education laws, if we leave



complete control over Child Labor with the states, since the states must make our compulsory attendance laws.

Let us briefly review the negative's case. We have pointed out that the affirmative must justify the proposed amendment on the basis of what Congress would do. Congress might do one of three things. It might raise the standards of the so-called laggard states. But it cannot do this since there are no laggard states. Our opponents must show that every state which has low standards really has a Child Labor problem to justify the proposed measure on this basis. Second, the Federal government might provide better enforced laws. But this is merely a vague assumption without definite proof. Finally, Congress might generally create higher Child Labor standards. But to justify the proposed amendment on this basis our opponents must face this charge of creating a problem of unbalanced legislation.

**First Negative Rebuttal, Ben Simmons**  
**Northern State Teachers College**

The affirmative have repeatedly endeavored to establish a national Child Labor problem, and they have quoted numerous figures from the 1920 census to bear out their contentions. But in quoting these figures, as I have pointed out previously, they have failed to make their own distinction between children's work and Child Labor, and have not shown that all of these children are employed to their detriment.

The gentlemen say that this problem exists because

the states have failed to control the situation. Therefore, they demand Congressional action. But they have failed to say what standards should be enacted to remedy the situation. Now the negative have to consider the wisdom of the affirmative proposal on the basis of what Congress could do to better the Child Labor situation. They have not met us on these grounds. They have not shown us what Congress could do to remedy the situation. We have asked them what standards they would have Congress enact and they have said they do not know. Therefore, we are left without any basis for judging the wisdom of their proposal.

The gentlemen have referred again and again to migrations and interstate competition. But they have set no standards to which they would have Congress attain, which they consider necessary to abolish these evils. As we have repeatedly pointed out, and they have failed to deny, all the states with a Child Labor problem come up to the standards which Congress set in the past two federal laws and would be likely to set again. Therefore, there is at present a practical uniformity of Child Labor standards, and it is no different from what is likely to exist under Congressional action.

The opposition have brought up the problem of children in agriculture and propose that Congress remedy this. They mention the need for educational minimums, physical examinations, etc., for children in industrial work. In fact, the gentlemen propose to have Congress legislate upon the whole child welfare problem in all of its phases. Yet they still have no proof that Congress would enact these provisions under the proposed amend-

ment. As we have pointed out, the standards of the past federal laws are the standards that Congress would be likely to enact again, and these had no provisions for an educational minimum or physical examination. Yet all of the states with a problem, not only attain to these standards, but many go far beyond them, having educational and physical standards as well. The fact remains that in enforcing the past federal laws, the Children's Bureau found it possible to accept the state working certificates and permits in practically all of the industrial states which shows that even at that time, these states equaled the federal standards.

The gentlemen have endeavored to establish an increase in Child Labor since the repeal of the last federal law on the basis of certain statistics gathered by the Children's Bureau, in certain cities. This is only an isolated bit of evidence,—it is not enough to show a general increase in the Child Labor problem. Moreover, this survey not only found an increase in certain cities, but it found a decrease in other cities. In general it showed an increase from 1920–23; a decrease, 1923–24; and a slight increase again in 1924–25. These figures speak for themselves in saying that they are merely general temporary fluctuations due to numerous factors, industrial and seasonal.

The affirmative in support of their contentions as to the superior effectiveness of federal control, have quoted state labor officials as to the effectiveness of federal control. There are authorities on the other side of the question. Egare Gardner Murphy, organizer, and first secretary of the National Child Labor Committee, states

that there is no reason for believing that federal laws are more effectively enforced than state laws. The House Committee on the Judiciary minority report on the proposed amendment took the stand that we have no good reason for believing that federal control would be more effective than state control. Finally, Nila Francis Allen, former chief of the Children's Bureau, who was in direct charge of the enforcement of the two previous federal laws has taken a decided stand against the amendment showing that she has no faith in the effectiveness of federal control.

Finally, the opposition have failed to establish a Child Labor problem in any specific state and have failed to show that any states are laggard in any manner except in regard to statutes which are unneeded. They have failed to show a Child Labor problem in any state in regard to factory work, mines, or night work, or any of the standards which Congress enacted in the previous federal laws. Therefore, they have not established their contention that there is a great national Child Labor problem.

**Second Negative Rebuttal, William Gruhn**  
**Northern State Teachers College**

The last speaker on the affirmative has endeavored to show that federal laws would be more effectively enforced than state laws. In an attempt to prove this contention he has pointed to violations of state Child Labor laws. But merely because state laws are being violated does not prove that federal laws would be better en-

forced. Federal laws are also being violated. Glance at the prohibition law. That is a federal law and yet it is flagrantly violated in every section of the country. In fact, there are violations of practically every law. Our opponents cannot merely point to violations of state laws to prove this contention. They must present some evidence to show that federal laws will not be violated as much as state laws.

We pointed out that the affirmative must justify the proposed amendment on the basis of what Congress would do. They must show us that Congress will remedy the situation that they say exists. The only way we could tell what Congressional action on Child Labor would do is by having some idea of the laws Congress would be likely to pass. But the affirmative admit that we do not know what Congress will do. They merely desire to leave it to the discretion of Congress to take care of the problem as it saw fit. We might just as logically assume that the States will care for this problem in the future as to assume that Congress will do it, unless our opponents can show us what standards Congress would be likely to pass.

The affirmative endeavored to show first of all that there was a serious Child Labor problem in our nation to-day. They admitted that there was a decrease in Child Labor between 1910, and 1920, but they believed this was due to the federal law which was in effect in 1920. We have already pointed out that they failed to show a causal relationship between this decrease and the fact that the federal law was in effect at the time. As a matter of fact, there were other causes for this

decrease, as we pointed out. At that time there was a business depression which decreased the amount of employment. The state standards had made an enormous progress between 1910, and 1920, and several other factors contributed to this decrease as we have already indicated.

The affirmative further pointed to the large number of children employed in the United States. They contend that over a million children were gainfully employed and 280,000 of these were employed in mines, factories, etc. But these figures include children up to sixteen years of age. Congress in the two previous federal laws only regulated Child Labor up to fourteen years, except in certain dangerous occupations. To justify an amendment on these figures our opponents will have to show that Congress will set sixteen years as the minimum working age. It did not do it in 1916, and 1919. Why should we believe that Congress would take such action now?

The affirmative pointed to an increase of Child Labor in Mississippi and New York. They assumed that merely because there was an increase in these two states that this situation was prevalent throughout the entire country. They must show us on what figures this increase is based so we can determine whether or not it is valuable material which can be accepted in support of such argument.

The affirmative wish to justify the amendment because of the number of children engaged in industrial agriculture. We have already pointed out that Congress has never regulated Child Labor in any form of ag-

riculture. It did not do it in 1916, and 1919. What reason have we to believe that Congress will do it now?

Our opponents present the interstate migration of children as an argument for the proposed amendment. But they merely give instances of migration in agriculture, and as we have repeatedly indicated, Congress has never regulated Child Labor in agriculture. Furthermore, they did not show us that this migration was not due to season migration, which exists in all forms of labor. But even if such migration of child workers does exist, it would still continue under federal control, since Congress would merely provide a minimum standard, and the states could go above this standard. There would still be a difference in standards to cause such migration.

Our opponents contend that unfair competition from states with low standards prevents the states from passing adequate Child Labor laws. Yet in spite of any unfair competition that may exist, we have shown that all the states with a Child Labor problem came up to the standards of the previous federal laws, and many go beyond.

The last speaker on the affirmative has stated that the District of Columbia is not directly controlled by Congress, but is governed by a commission appointed by the President. Nevertheless, the District of Columbia is under the supervision of Congress. Congress is ultimately responsible for the passage and the enforcement of its laws, and it has failed to deal with Child Labor as well as any of the states, except Florida.

Our opponents must justify the proposed amendment

on the basis of what Congress would do. It could not raise the so-called laggard states, since there are no laggard states in fact.

The contention that federal laws would be more effectively enforced than state laws is merely a vague assumption without definite proof. Finally, if Congress would generally create higher Child Labor standards, our opponents must face this problem of unbalanced legislation.

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## CHILD LABOR AMENDMENT





# CHILD LABOR AMENDMENT

## WOMEN'S CHAMPIONSHIP DEBATE

### *BAYLOR COLLEGE FOR WOMEN vs. SOUTHWESTERN COLLEGE (KANSAS)*

The Women's Championship contests began at the Colorado Teachers College, Greeley, Colorado, about March 26, and were completed at the Pi Kappa Delta Convention at Estes Park April 1, 1926. The same rules that obtained in the Men's contest were used. About twenty-five colleges entered teams, and the two colleges whose debate is given here were the survivors at the end of six rounds. Baylor College won the final debate and received the championship cup and medals.

The question used was the same as that in the men's championship contests, and the speeches were prepared for publication in the same manner, and forwarded by Professor Alfred Westfall.

#### COLLEGES MET BY BAYLOR COLLEGE IN THE DEBATE TOURNAMENT OF PI KAPPA DELTA AT ESTES PARK, COLO., 1926

1. Baylor College, *affirmative*, won over Emporia Kansas Teachers, 3 to 0.
2. Baylor College, *negative*, won over Tulsa University, 2 to 1.
3. Baylor College, *affirmative*, won over Colorado Teachers No. 1, 2 to 1.
4. Baylor College, *affirmative*, won over College of Pacific, 3 to 0.
5. Baylor College, *negative*, won over Colorado Teachers No. 2, 2 to 1.
6. Baylor College, *negative*, won over Aberdeen College, 2 to 1.
7. Baylor College, *negative*, lost to Southwestern, 3 to 0.
8. Baylor College, *affirmative*, won over Southwestern, 2 to 1.

COLLEGES MET BY THE SOUTHWESTERN COLLEGE  
(KANSAS) IN THE NATIONAL PI KAPPA DELTA  
TOURNAMENT, ESTES PARK, COLORADO, 1926

1. Colorado Agricultural College, Second team, *negative*, vs. Southwestern, *affirmative*. Aggies forfeited to Southwestern.
2. Colorado Agricultural College, First team, *negative*, vs. Southwestern, *affirmative*. Southwestern won. Critic judge.
3. Morningside College, *affirmative*, vs. Southwestern, *negative*. Southwestern won, 3 to 0.
4. Oklahoma Women's College, *negative*, vs. Southwestern, *affirmative*. Oklahoma Women won, 2 to 1.
5. Western Colorado State Teachers College, *affirmative*, vs. Southwestern, *negative*. Southwestern won, 3 to 0.
6. Colorado State Teachers College, *affirmative*, vs. Southwestern, *negative*. Southwestern won, 2 to 1.
7. Baylor College, *negative*, vs. Southwestern, *affirmative*. Southwestern won, 3 to 0.
8. College of the Pacific, *negative*, vs. Southwestern, *affirmative*. Southwestern won, 2 to 1.
9. Finals: Baylor College, *affirmative*, vs. Southwestern, *negative*. Baylor won, 2 to 1.

**First Affirmative, Martha Hardy**  
**Baylor College**

There is no problem confronting any nation of more vital importance than the welfare of its children. After almost fifty years of attempts at regulation by the states, Child Labor came to be recognized as a national problem. Congress, therefore, passed two laws—one in 1916, the other in 1918—both of which were declared unconstitutional by the Supreme Court. These decisions were based purely on the technical question of constitutionality. The Supreme Court did not deny either the need of such legislation, or the justice of the proposed laws.

What we are proposing now is, that the constitution should be so amended as to give Congress the power to regulate Child Labor; that is, to enact laws with provisions similar to those of the former federal laws. Now we are not asserting that these laws were perfect or sufficient, but we do contend that the problem cannot be solved unless Congress has the constitutional right to fix certain uniform minimum age limits for the same kinds of employment.

Our discussion will center around three main questions;

1. Do conditions as they exist to-day under state laws demand a change?

2. Can the states acting individually solve the question of Child Labor?

3. Would federal regulation afford a more satisfactory solution?

I shall quote facts and describe conditions as they exist to-day, after more than sixty years of attempt at regulation by the states, and leave it to your judgment as to whether or not these conditions demand a change. The 1920 census showed over a million children gainfully employed. This means that one child out of every twelve is working. Of these child workers, over one-third were between the ages of ten and thirteen.

We do not wonder at these conditions, however, when we consider the standards as they exist in the different states.

Two states do not regulate in any way the daily hours of the labor of children; nine states have no law prohibiting children under fourteen from working in

factories; nineteen states do not make physical fitness a condition for employment; and thirty-seven states allow children to go to work without a common school education. Can the problem of Child Labor be solved as long as such low standards exist?

Not only are the state laws in many instances woefully inadequate, but there is lax enforcement of existing laws, and numerous exemptions are permitted. Thirty-three states, with a fourteen-year minimum age limit, have weakened their laws by permitting exemptions under which children not yet fourteen may work. An editorial in the *New York World* for February 24, 1924, says: "In addition to inadequate laws there is lax enforcement. For example, Pennsylvania permits boys of fourteen and fifteen to work in the coal breakers, where they breathe into their lungs the clouds of powdered black fuel. And in Mississippi there is but one inspector who must cover the entire state." According to the *Monthly Labor Review* for February, 1924: In North Dakota eight per cent. of the children under fourteen years of age reported their principal employment to be occupations specifically prohibited. A number of other violations were listed, including serious cases of night work.

These are the conditions of Child Labor as they exist to-day under state control. And what are the effects of this employment of children? The evil is confined to no one state or section of the country; it is nation-wide in its extent, and it demands a remedy nation-wide in its application.

The child laborer is handicapped in body, mind and

soul. Investigations of the Colorado beet fields have shown an amazing extent of stooped shoulders from the constant bending. In New Jersey, they work in tenement sweat-shops, which are dark and unsanitary, and where disease rages. Even tubercular children were found employed in this work. In Louisiana, children under twelve years of age have their hands lacerated by work in oyster and shrimp canneries, where they labor from six in the morning to ten at night. Statistics of the various states show that there are thousands of children employed in the cotton mills of the South. With a few exceptions they labor for a minimum of ten hours each day. If the eight hour day were in effect, as provided by the invalidated federal laws, a total of 20,000,000 hours of play would be added to the lives of these children. But as it is now, the boys and girls are kept bending over the spinning frames until after darkness has ended all opportunity for out-door sports. These long hours deprive them of the exercise that is so essential for their proper physical development. Such conditions as these produce men and women who are stunted in body, and unable to become normal, healthy citizens.

Another result of Child Labor is that it prevents the children from receiving an education. They are thus seriously handicapped in their battle for existence. A map would show that the area of the greatest number of child laborers is almost identical with the highest percentages of illiteracy. Ten of the states having the highest percentage of illiterates, in the age group of ten to fifteen, are included in the twelve states having

the highest percentage of child laborers of the same age.

Investigations of school records in New York show that during the rush season the children are kept at home on the slightest excuses;—and that few boys and girls ever reach the fifth grade. Mr. Lytton R. Taylor, an El Paso attorney, says that the Texas cotton patch is the greatest curse of childhood. In order to pick a few pounds of cotton, children are forced to grow up in ignorance. In many rural districts they average only sixty days a year in school; and they are deprived of even an elementary education.

By allowing these children to work, we are helping to fill our reformatories and jails. Harold Cary, a special investigator for *Collier's Weekly* says, in the issue of January 24, 1924: "Working children contribute four times their share to juvenile delinquency." Child Labor and delinquency, especially in street occupations, are closely associated. According to the federal report on "The Conditions of Women and Child Wage-Earners in U. S.," child laborers were shown to have been responsible for sixty-two per cent. of the total number of offences recorded. One of the important factors in producing the excessive amount of delinquency is the bad character of the men with whom the children are associated. In one city, out of twenty-three supply men employed on two newspapers, extensive criminal records were found for thirteen.

The curse of labor descends upon the child in the critical, formative period of his life, and denies him the privilege of normal development, not only physical and mental, but also spiritual.

These are the conditions, Honorable Judge, as they exist to-day. State laws are inadequate and are poorly enforced. Again we insist, if the states are not solving the problem, the federal government must. If we are our brother's keeper, why not the keeper of our brother's children? If the nation is to regulate the traffic in liquor, why not the traffic in children?

We have expressed our belief in the conservation of forests, fisheries, and all our natural resources. Only with regard to the most precious asset of all—our children—do we appear to be indifferent. Shall the American people squander the most priceless treasure of our nation? The children of to-day are the republic of to-morrow. Ten years hence all of those who are eligible for "working permits" will be citizens. Above all other interests, all other concerns, all other duties, rises the obligation of the American people to cherish its children. The future of our nation depends upon the decision of this question. Our civilization will survive or perish according to the treatment of our children.

**Second Affirmative, Cora Whitley  
Baylor College**

My colleague has described to you the conditions of Child Labor which have resulted from state control. I shall attempt to show that the states cannot solve the problem, and that federal regulation would be effective.

There are conditions which make it impossible for the states to deal satisfactorily with Child Labor. So

long as there is no uniform nation-wide minimum age-limit, there will always be phases of the question which the states cannot solve. For example, goods may be sent from a state with strict laws into a state with poor laws. The work is done by children of the latter state, and the finished product sent back to the state prohibiting Child Labor. The employers are in one state, the children in another. Neither can be reached by the laws of the adjoining state, and there is no way to remedy the evil.

Testimony before the Woman's Committee for the Child Labor amendment showed that more than one thousand children were found in Jersey City doing sweat-shop work in their homes, under dangerously unsanitary conditions. New York manufacturers were sending work to Jersey City to escape the New York regulation against tenement home work; and because the employers were in New York, they could not be reached by the Jersey laws.

Let us consider just how much the nation is concerned at this question. Not only is the welfare of future citizens at stake, but the economic interests of the country are seriously affected. From a purely economic standpoint, we cannot afford to leave the problem to state legislation.

The good laws of one state are nullified by the poor laws of another. A manufacturer in a state having high standards must have his goods placed on the market in competition with the products of children in an adjoining state, which have been produced at low cost, and can therefore be sold at low prices. If his business



is not to suffer, there are only two courses open to him. He can either resort to dishonesty and protect his prices by sending work into an adjoining state where it can be done by children beyond the reach of strict regulations; or, he can move his factory into the state with lax regulations. Thus the progressive state, the one with adequate Child Labor laws, must either countenance dishonesty or lose the invested capital. And the opposition to federal legislation comes from manufacturers in the states having low standards, who are getting rich on the products of cheap Child Labor.

State laws are also nullified when children are sent from one state to another. The problem of migratory Child Labor is one of the most serious evils of this question. In 1924, the president of the B. and O. railroad reported that from Baltimore alone, three thousand children were carried to work in the southern canneries. And last year the president of the American Sugar Beet Co., stated that eighteen thousand laborers were imported from the southwest to work in the beet fields, with an average of five children to each family. How can this problem of the employment of children in industrialized agriculture ever be solved without a uniform federal law?

A national evil demands a national remedy. Will our opponents oppose such an amendment on the grounds of states rights? Federal laws already supersede states rights in dealing with prohibition and pure foods. Do our opponents favor the repeal of these? We have a federal quarantine law which tells any state that if it does not quarantine a hog, the federal government will

do so, because the hog can be shipped in interstate commerce. Why should we be more careful about our hogs than about our children?

The negative may tell us that children must be allowed to work in order to help support their parents. And they usually do work, and, having no education, they reach maturity so incapable that they in turn require the assistance of their children. Thus poverty recreates itself. It would be an economic saving to keep a generation of children out of work, educate them, and equip them to make a normal contribution to the state, instead of depending on the state for support. Child Labor does not relieve poverty; it only reproduces it. And it would be cheaper, in the long run, for the states to support the parents, rather than continue this vicious circle of ignorance and poverty.

We have pointed out to you the evils of Child Labor as they exist to-day under state control, and explained the conditions which make it impossible for the states alone to handle the problem. Let us consider, finally, whether federal regulation would remedy the situation.

We wish to make clear what is meant by federal regulation. We do not urge that the federal government should be given exclusive powers. Both the first and second federal Child Labor laws sought only a fixed minimum age limit for the same kinds of employment. Federal regulation does not present a choice between alternatives of state and national action, but offers a possibility of cooperation between state and federal governments to protect the children, who belong both to the state and the nation. And in advocating federal

control, we do not maintain that it will afford a perfect solution. But we do contend that the federal government is better able to deal with Child Labor, than are the states alone.

We are not asking that Congress be given a new and untried power. We are proposing that they shall have the Constitutional right to enact laws similar to those of 1916 and 1918. By studying their operation we may judge of the effectiveness of federal regulation.

One result was to stimulate state legislation. During the period covered by these laws, a number of states passed compulsory school attendance laws; others passed and strengthened minimum wage laws. Nine states adopted an eight-hour day for children under sixteen, and twenty-one states put a sixteen-year age minimum on employment of children in mines and quarries.

And what were the administrative problems created? There was no conflict of authority. State officials, at their own request, were commissioned to assist in the enforcement of the federal law. They testify that it increased the respect for the state laws. At the conference in Washington in May, 1924, one after another of the Child Labor officials, from Wisconsin, New Jersey, Pennsylvania, Louisiana and other states, testified to the splendid cooperation between state and federal officers in enforcing the law.

But the supreme test of the effectiveness of federal laws was met in the decrease of child laborers. State laws in the South do not protect children in textile mills. While the federal law was in force, the owners obeyed

it, to the great advantage of the children. In fruit and vegetable canneries the change for the better was revolutionary. In New York, colonies of young children with their mothers had long been camped in bunk-houses in rural districts, working unlimited hours. Not one penalty had been enforced under the state law. When the federal law took effect, it was immediately respected. Mothers worked only the hours specified, and children below the age limit were no longer employed.

And what happened when the federal law was declared unconstitutional? Reports from thirty-four cities show that the number of fourteen and fifteen year old children receiving first regular employment was 14,061 more in 1923 than in 1922. With the removal of the federal stimulus, Child Labor in many parts of the country has increased at an alarming rate.

We have pointed out to you that the States have not solved the Child Labor problem; that they can never solve the interstate phase of it without a uniform nation-wide law; and that federal laws were effective in 1922. Why should we not give Congress the constitutional right to pass such laws again? What conditions exist now that did not exist then? And what reason have we to believe that federal regulation would not greatly improve conditions now?

The righteousness of a cause may be judged by its friends. We challenge the negative to read to you a list of organizations and authorities who oppose a federal amendment, as compared with those who favor it. The opposition is due primarily to misinformation and misrepresentation, encouraged by the selfish greed of those

manufacturers who are profiteering on the lives of our children; while the friends of the movement comprise a vast majority of the intelligent public sentiment of the country. The vital need of a federal amendment was summarized by President Coolidge in his speech of acceptance in August 1924:

"Our states have different standards for Child Labor, or no standards at all. Congress should have authority to provide a uniform law, applicable to the whole nation, which will protect childhood. Our country cannot afford to let anyone live off the earnings of its youth. Their places are not in the factory, but in the school, that the men and women of to-morrow may reach a higher state of existence, and the nation a higher standard of citizenship."

**First Affirmative Rebuttal, Martha Hardy  
Baylor College**

Both my opponents have quoted Mr. Raymond G. Fuller, as an authority; they would have you believe that Mr. Fuller is opposed to federal regulation. On page 247 of his book "Child Labor and the Constitution" he says, "The two federal laws were enacted in response to public demand for federal action against Child Labor. Reason for that demand still exists in the slowness and inadequacy of state action; in its tragic failure in some instances; in the fact that Child Labor is a national evil."

The first speaker of the negative has pointed out that federal regulation is unnecessary for three reasons:

1. The amount of Child Labor is small.
2. The states are effectively dealing with this problem.

3. The states are making such progress as to give every promise that soon Child Labor will be eliminated.

Let us examine these contentions and see if they will hold. The speaker spent her entire time trying to minimize conditions as they exist to-day. They ask, are we to disregard the progress the states are making? We do not disregard the progress the states are making; we are glad that certain states have high standards and that others are raising theirs, but why should the states who have high standards object to the standards of the backward states being raised by the regulations which the federal government would set? By a skillful process of elimination she has succeeded in reducing the number of child laborers to about one per cent. They insist on talking about percentages rather than children; but by her own figures the number is 72,000—should the nation stand idly by while these children suffer?

### Second Affirmative Rebuttal, Baylor College

The negative are still contending that conditions do not demand a change. Now if you have any doubts as to conditions, let me read to you from a pamphlet by H. M. Pringle, sent out by the New York *World* in 1924. The *World* was opposed to a federal amendment; but he says, after a six thousand mile trip from Michigan to Louisiana and from Colorado to Maryland, that

he found boys and girls, five, six, and seven years old working: "I haven't much faith in the states. They are not entitled to their rights when they fail to exercise them. Since the federal laws were annulled, state enforcement has sunk in many parts of the country to the status of a joke."

The first speaker of the negative declared that federal control would result in bureaucracy. But we already have a federal Child Labor bureau; and the large number of officials to which they referred, which would be necessary to enforce the law, under the first federal law was only seventeen. She also asserted that federal control would result in centralization. That is the same objection that was made to prohibition, woman's suffrage, and other progressive measures. Has the country suffered from centralization in any of these?

One of our opponent's chief contentions has been that a federal law would be impracticable, because it could not be enforced and it would block the means by which the states could solve the problem. This objection is only theoretical. They have not shown you *why* the laws could not be enforced. We have pointed out that the number of children laboring was decreased under the federal laws, and that it increased after these laws were annulled; and they have not attempted to deny it.

As an example of the failure of federal regulation, the negative has cited the Volstead Act. But has no good come from this law? How many states can our opponents name where there has not been less drinking under the federal law than under state laws? Or would they advocate the repeal of national prohibition laws?

They are not perfect, neither would a federal Child Labor law be perfect; but it would greatly improve conditions.

Our opponents contend that state compulsory school attendance laws would solve the problem. They admit that there is a problem. But we have here a Department of Labor pamphlet, which gives the number of states requiring compulsory and part-time attendance, and eighteen states do not require even part-time attendance.

The negative base their case on the contention that the states can solve the problem. We ask our opponents, how the states can handle the problem, when twenty-seven states do not even register the births of their children? They do not even know whether they have any children! State laws are not being enforced, and the federal laws were enforced. Royal Meeker, of the Pennsylvania Department of Labor, admits that, "It is virtually impossible to enforce the state Child Labor laws." We have similar statements from Wisconsin, Louisiana, Rhode Island and other states. We are told that the states are raising their standards. Yet last year, Connecticut, Massachusetts and Louisiana refused to raise their educational standards; seven states refused to adopt the eight-hour day; and Rhode Island actually lowered its standards. Massachusetts has now before its legislature a bill to raise the hours of labor for children from forty-eight to fifty-four hours a week, and this is being backed by the manufacturers.

We challenged our opponents to read to you a list of those opposed to such an amendment, as compared with



those who favored it. They have failed to do so. Opposing the amendment are the National Association of Manufacturers, the American Mining Congress, The Southern Textile Association, The Association of Glass Manufacturers, and so on, every one of whom is making money on cheap Child Labor. On the other hand, favoring it are all the leading welfare organizations, and outstanding colleges and university professors. As Prof. C. A. Elwood, president of the American Sociological Society, has said; "Only ignorance, misunderstanding and selfishness can give rise to the opposition to the proposed amendment. I do not know of a single economist or sociologist of note who is opposed to it. Socially intelligent people, from President Coolidge down, acknowledge the need of such a measure."

First Negative, Lucile Wright  
Southwestern College, Kansas

We, too, favor the abolition of Child Labor—not once will we defend Child Labor or any of its consequences. The point upon which we do not agree is the method by which Child Labor should be abolished. We take it that the question means—Should Congress have power to help solve this problem, or should the states deal with this alone?

We desire to answer one or two of the arguments of the speaker who has just left the floor. Our opponents declare that Mississippi has had very poor Child Labor laws. But, Honorable Judges, she is able to report a decrease in Child Labor. If Mississippi has such a

low standard of Child Labor laws, why is it that she is able to report a decrease? Federal control of the Child Labor situation is unnecessary for the following three reasons:

1. The amount of Child Labor is small;
2. The states are effectively dealing with this problem;
3. The states are making such progress as to give every promise that soon Child Labor will be obliterated.

Take the first question. The amount of Child Labor is small, and has been greatly exaggerated. Advocates of this amendment have been so anxious to help the children that they have permitted their zeal to over-ride their reasoning powers and to overlook the facts. Says Raymond Fuller, Secretary of the Massachusetts Child Labor committee, "Nine out of ten think of Child Labor in terms of bygone conditions; nine out of ten think of it in spectacular terms," but such thoughts do not fit the present situation. Let us examine facts. In 1920, there were 1,060,858 child laborers in the United States between the age of ten and fifteen years. Of this number, three-fourths were employed in agriculture. Of this number, eighty-eight per cent. worked on their own fathers' farms, this work was not injurious, for it was under the guidance and protection of the parents. This leaves 77,000 working outside of home forms. In non-agricultural pursuits there were 413,000, but of this number, 364,000 were legally employed under the federal act of 1919 at that time in force, leaving but 49,000 child laborers in non-agricultural industries. Adding 77,000, the number employed in agriculture outside of

home farms to 49,000, the number employed in non-agricultural pursuits, makes a total of 126,000 child laborers in the United States in 1920. This is one per cent. of the 12,000,000 children in the United States; it is one-fourth of one per cent. of the laborers in the United States; it is one-tenth of one per cent of the total population in the United States. Yet it is for this small number that our opponents would seek a grant of power from congress; it is for this number that the affirmative would change the fundamental law of the land to solve this minor problem. Thus we see the amount has been greatly exaggerated, for in reality the amount of Child Labor is small.

Second, the amendment should be rejected because the states are effectively dealing with this problem. When we say state control, we include the government of every county, township, and city in the state. They all receive power from, and work in conjunction with, the state administration. To-day forty-eight states prohibit children under fourteen years of age from working in factories; thirty-three states prohibit them from working in mines—nine states have no mines and so we would not expect them to pass laws concerning this; to-day forty-eight states prohibit children under sixteen of age from being employed in dangerous occupations; all but four states prohibit children under sixteen years of age from working at night. Do not these figures reveal the fact that the states are effectively solving this problem. Considering the enforcement of these laws, we wrote to the State Labor Departments of each of the forty-eight states, and their replies were unanimous

that the labor laws were being enforced. We could read to you many of these letters—time permits only a few. Says the Labor Committee of Wisconsin, "Every community in the state is strongly committed to stand for the enforcement of Child Labor laws." The Labor Committee of Tennessee says, "There are few violations of our Child Labor laws." Nevada reports—"Violations have been reduced from 1920 until there are practically none." Many others state that there are very few violations of Child Labor laws. Considering the high standards of our present state laws, and the strict enforcement of these laws, do we not see that such an amendment is absolutely unnecessary because the states are effectively dealing with this problem.

Third, the states are making such progress as to get every promise that Child Labor will soon be completely obliterated. Let us consider the progress which our states are making at the present time. To-day forty-eight states in the union regulate Child Labor; fifteen years ago few states had any laws regulating Child Labor, but to-day every state regulates the labor of its children. Georgia was the last state to improve the standards of her laws, but Georgia has improved her laws and now ranks with the most progressive states in the Union. Under the federal Child Labor tax law, there was formal acceptance of the working employment certificates of thirty-six states in the Union. Now the state laws were not precisely the same as the federal laws, but we would not expect a state that had no mines to pass laws governing mines; a state that had no cotton fields to pass laws regulating work in cotton fields, but

for all practical working purposes, the laws of thirty-six states so closely approximated or excelled federal standards that the working certificates were accepted by the federal government. In 1923, half of the legislatures that met improved their Child Labor laws. In 1925, twenty-three states improved their Child Labor laws. Are we to disregard all the improvements which the states are making at the present time? Are we to seek federal aid when the states are so effectively solving the problem? The undeniable fact that the states are improving their old laws, passing new ones, raising their standards, successfully enforcing their requirements so rapidly and so universally as to give every promise that soon Child Labor will be completely obliterated, proves conclusively that an amendment to our constitution is absolutely unnecessary. It is unnecessary for the following three reasons I have established.

1. The amount of Child Labor is small.
2. The states are effectively dealing with this problem.
3. The states are making such progress as to give every promise that soon Child Labor will be completely obliterated.

Honorable Judges, the amendment is unnecessary.

Second Negative, Edith Stewart  
Southwestern College, Kansas

The federal Child Labor amendment is not only unnecessary as my colleague has shown, but it is impracticable because—first, the amendment cannot be en-

forced. One of the illustrations foremost in American thought to-day is that of the non-enforcement of the prohibition amendment. The conviction is constantly growing that the federal government has failed and is bound to fail in its attempt at enforcing the Eighteenth Amendment. Even many of our most ardent advocates of prohibition have been driven to the conclusion that the enforcement of the Volstead Act is essentially a local matter. Now you may say; "Ah, but that has been tried but for six years." Then listen to one of the most glaring examples of non-enforcement which our history affords: that of the Fifteenth Amendment intended to give negroes the right to vote. Ever since that amendment has been enacted, since 1865, localities unfavorable to it, by intimidation, by educational qualifications, by grandfather clauses, and various other devices, have violated, evaded, voided it—an amendment to our constitution. The federal government never did enforce the Fifteenth Amendment! Public opinion is merciless and when it is unfavorable to a proposal, the law even to the highest and most sacred law of our land, suffers and remains unenforced. The federal government, strong and powerful as it is, in such a case as this, is powerless.

The same fate awaits the federal Child Labor amendment. Local enforcement officials would be powerless, held at the mercy of the verdict rendered by the various localities. No doubt, Congress could pass a very good Child Labor law, applicable to the varying conditions of all the states. We do not doubt that, but how could Congress enforce such a law? In districts with high Child Labor standards, perhaps she could; but

there it is not needed. In districts with low Child Labor standards, enforcement is impossible; but there is where the problem lies. The proposal of the affirmative is impracticable for a federal Child Labor amendment cannot be enforced.

Then it is impracticable for—second, it would block the only means by which the problem can be solved. It is a recognized fact that it is the states that deal with those intimate local conditions which are the causes of Child Labor. Child Labor, as we know, is but a part of that larger problem of child welfare; inextricably woven in the problem of Child Labor are the problems of compulsory school attendance, scientific poor relief, suitable work and play, justice to farmers, fair living wages for adults—all of which the states alone can deal with. And to-day the states are dealing with these basic considerations. They are launching a program to improve the public schools, and thus draw children to them, not drive them away—this factor, unattractive schools, according to a recent publication, entitled, "Employment of Young Persons in the United States," is responsible for from sixty to seventy per cent. of the Child Labor now within our country. And it is the states, and the states alone, who can deal with this factor. Another means by which the states are dealing with the causes of Child Labor, is the Mother's Pension law, which by use of public funds given to the mother, makes it unnecessary for the child to work. This factor, poverty, according to that same publication is responsible for the remainder of the Child Labor in our country, or from thirty to forty per cent. of it; and it is the states and

the states alone who can deal with this basic factor. Other state agencies dealing with the causes of Child Labor are play-ground associations, children's clubs, children's code commissions, child welfare boards, juvenile courts—these various state agencies are crumbling the foundation upon which Child Labor is based. We of the negative wish to delve beneath the external manifestations of inner maladjustments; we wish to get such a hold on these inner maladjustments, the causes of Child Labor, as to make the employment of children impossible.

Now theoretically, it would be an ideal plan to have the federal government set up a minimum standard and then have the states by their punitive and constructive legislation, come up to that standard, but it is theory and only theory; facts do not bear it out—it is impracticable!

Here is the danger of the federal Child Labor amendment. The states would then say: "Ah, we have a law, a federal law; our problem is solved." They would sit down, fold their hands, ignore the fundamental causes of the problem. No better illustration of this can be found than that depicted by our Eighteenth Amendment. Before the amendment was passed, ten states were on the verge of passing prohibition laws. After it was enacted, not one of them passed a single law; and New York repealed some of the laws she had already had. To-day, practically all of the effort is spent upon enforcing the prohibitory phases of the Volstead Act, and thus the fundamental causes are being neglected.

Should a federal Child Labor amendment be enacted,



this great constructive work which the states are now carrying on to eliminate the economic, social, educational causes of Child Labor, would be blocked by the idea that "now our problem is solved for we have an amendment on the subject."

Moreover a federal Child Labor amendment would block the only solution of the Child Labor problem, for it would give fresh impetus to the tendency that the states now have to turn their affairs over to the federal government. When a problem becomes distasteful for them to solve; when it becomes complicated, presents real difficulties, they call loudly for the federal government. In behalf of such proposals, it has been said: "It is a national problem, and the power of the states stops at the state line," but too often this has been used as a mere excuse to turn matters over to the federal government. As a result, to-day the federal courts are clogged with cases which are essentially of local interest; and the federal enforcement system has broken down beneath the tremendous burden. Take the Mann Act; the regulation of white slavery became very distasteful to the various states, and so under the guise that it was a national problem, they turned the regulation of morals, essentially a local matter, over to the federal government. Take the Dyer Act; it was an attempt on the part of the states to saddle on to the federal government the solution of the automobile theft problem; whenever the thief made the fatal mistake of driving the car he had stolen over the state line. The prohibition amendment is another illustration of the point. Should a federal Child Labor amendment be enacted,

the states would be given fresh courage to indulge in this disastrous practice; and another matter essentially local, which the states alone can solve, would be relinquished and turned over to the federal government.

Now, fortunately, the great American public is beginning to see that this tendency has gone far enough. This feeling has expressed itself in some states by refusal to accept federal cooperation in road building. This feeling expressed itself in the rejection of the Child Labor amendment. Forty-one states rejected the amendment; only four ratified it; three did not even vote upon it. Why? Not because our people want Child Labor; not because of false propaganda, we are not that easily misled; but because the people are beginning to see that they must rise and check this tendency to "let Washington do it." After all, this old American principle of local government is a vital one.

We must beware of reformers who constantly turn to the federal government because they have not enough patience and perseverance to educate public opinion. A federal amendment in such a case, is merely an ineffective short cut to reform. Our local communities cannot turn over all their problems to the federal government and thus avoid solving them by the local agencies. Child Labor is a local matter. It absolutely requires the cooperation of the child, parent, home, school, church, local employee, local official, local newspaper; it's a local matter. We must educate our local communities to factor their own problems and to solve them. Says President Coolidge: "Federal coercion never can and never will be a satisfactory substitute for the

persuasion of neighborhood opinion." A federal Child Labor amendment is impracticable because, first, it cannot be enforced, and second, it would block the only means by which the problem can be solved.

**First Negative Rebuttal, Lucile Wright**  
**Southwestern College, Kansas**

The arguments as presented by our opponents are:

1. Conditions demand a change because of the evil effects; and 2. That the states have not solved the problem and child labor is increasing.

Our opponents say that conditions demand a change because of the evil effects. We grant that Child Labor has evil effects, but the question at issue is: How are we to get rid of Child Labor, by state or federal control?

We have shown that Child Labor is rapidly decreasing—at the present time, it represents one per cent. of the children in the United States; one-fourth of one per cent. of the laborers in the United States; and one-tenth of one per cent. of the population of the United States. We have shown that even this small number will be reduced to nothing because of the progress which the states are making at the present time. The worse the effects of Child Labor the more imperative it becomes to continue with the only remedy that will ever solve the problem. To gain a false and superficial victory now by an amendment to our constitution would only prevent state adjustment of this matter. Our opponents declared the states have not solved the problem, yet under

the federal Child Labor tax law there was acceptance of working employment certificates of thirty-six states. If it is an accepted fact that thirty-six states come up to the federal standards, why do we need an amendment? And the states are making such progress that soon this small number will be reduced to nothing. The year 1925 showed that twenty-three states improved their Child Labor laws. Our opponents declare that Child Labor laws are not in force. We wrote labor law officials concerning this and their replies were unanimous that they were well enforced. Now they ask us about this problem—we could read many of the answers, but time will not permit. Wisconsin says: "Every community in the state is in common and the spirit and letter of the law is readily accepted." Tennessee says: "There were very few violations of our law last year." Nebraska: "Violations have been reduced since 1920 until to-day there are practically none." Kentucky: "We believe our Child Labor Act is well observed—only a small percentage of violations are found." Maine: "We have very few violations of this act." Montana: "All employers recognize the value of the Child Labor Act." Many other states report the same. Considering the high standards of our present state laws and the strict enforcement of these laws, do you not see an amendment is absolutely unnecessary? Our opponents declare our state laws are inadequate, yet forty-eight states regulate working age for their children and thirty-seven states have an eight-hour day for children; thirty-three states prohibit children under sixteen from working in mines; nine states have no mines and we would not expect them to regulate

this work. They also declare that Child Labor is increasing at the present time, yet they have shown the increase only by special localities and communities. The fourteenth census taken in 1920 is the most recent. They have shown the increase by localities but no nation-wide increase. From 1910 to 1920, there were one million more children in the United States, but 200,000 less employed. Considering the nation as a whole Child Labor is decreasing due to efficient state control.

**Second Negative Rebuttal, Edith Stewart  
Southwestern College, Kansas**

Our opponents have said that the states cannot solve the Child Labor problem because of the factor of unfair competition as to the laws of economics—one of which is that cheap labor is the dearest kind of labor. In the review of a recent publication, published by the National Industrial Conference Board, an organization of business executives, we read: "The authors are under no illusions as to the value of Child Labor; but they insist that because of the inefficiency of children and their greater susceptibility to work accidents, that it does not pay the employer to use them." Particularly interesting is the statement: "that the small manufacturer who mistakes wage rates for cost of production may think he sees an economic advantage in Child Labor, but a clear understanding of the case shows him to be in error." Another big factor overlooked is that the factors affecting production and location of indus-

tries are not few but many; Child Labor is but one and a small one at that. Other factors involved are efficiency and skill of workmen, nearness to fuel, water supply, accessibility to markets, facilities for transportation, and many others. Felix Brockman, head of the New England mills, says: "If all the Child Labor laws of all other states were abolished, the effect on the New England mills would hardly be noticeable. The very fact that New York, New Jersey, Ohio, Indiana, Wisconsin, Alabama—all have high Child Labor standards, and yet have not lost their rank as industrial states of the union, shows us that the factor of Child Labor as relates to unfair competition, is practically negligible."

Then they mention that cooperation is their proposal. We agree that the question implies that; but we are opposed to cooperation in the Child Labor matter, for as we have shown, federal interference, even attempted cooperation, would render impossible the solution of the Child Labor problem, for it would give the states a sense of false satisfaction that their problem was solved since they had an amendment and it would give fresh impetus to the tendency which the states now have to turn their affairs over to the federal government.

Our opponents have based their whole case as to the practicability of a federal Child Labor amendment upon the previous Child Labor laws of 1916 and 1919. Let us note first of all that these laws were in effect for thirty-five months—thirty-five months from which to draw such conclusions; thirty-five months' experience upon which to base a whole argument. Furthermore, we

venture the assertion that those laws would not have been in effect thirty-five months had it not taken that long for a case coming under the law to be settled in the federal courts. Moreover that thirty-five months' period was a period of economic depression, which is always manifested in post-war times, and of course Child Labor would be decreased at that time. How can they point to this period of economic depression and say this shows that a federal Child Labor amendment would work and would decrease Child Labor? Furthermore, we find that there was little actual improvement during that period. In personal letters sent to the various states, we asked this question: "What improvement was there in your Child Labor laws while the second federal law was in effect?" Only five mentioned any improvements at all, but listen to those who said none: Indiana, none; Mississippi, none; Iowa, none; Rhode Island, none; Connecticut, none; Colorado, none; Idaho, none; Kentucky, none; Alabama, none; etc. And finally we would point out that it was in the year 1913, several years before the federal laws were passed that the greatest improvement in Child Labor laws was made. We ask our opponents to point out specifically the improvements in Child Labor laws that occurred during the time the federal laws were in force. Ladies and Gentlemen, we wish you to see clearly that our opponents are basing their entire argument as to the practicability of the federal Child Labor amendment upon a thirty-five months' period of economic depression, permeated with post-war influences, and practically no improvement during the period.

Now, Ladies and Gentlemen, our opponents have not denied the fact that thirty-six states measure up to the federal standards; if thirty-six states measure up to the federal standards already, why have a federal amendment, we would ask our opponents? They have attempted to show the increase of Child Labor in localities, but we demand that they show it to be a nationwide increase.

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RECOGNITION OF THE SOVIET  
GOVERNMENT OF RUSSIA





# RECOGNITION OF THE SOVIET GOVERNMENT OF RUSSIA

## *KANSAS WESLEYAN DEBATE*

The statement of the proposition used by the Kansas Wesleyan debaters in the following debate was as follows: Resolved, that the United States should recognize the present government of Russia.

The speeches and rebuttals given here are designed to meet each other, but are quite similar to the arguments used in the several intercollegiate debates in which these teams confronted opponents from rival colleges. Kansas Wesleyan met in a series of dual debates St. Mary's College, Bethany College, McPherson College and Sterling College, with results as follows:

In the St. Mary's debates the negative won in each case, 3 to 0 for Kansas Wesleyan and 1 to 0 for St. Mary's.

With Bethany Kansas Wesleyan won both decisions 3 to 0.

With McPherson, the negative won in each case 2 to 1.

With Sterling, Kansas Wesleyan lost both decisions.

The speeches were contributed to Intercollegiate Debates in behalf of the debaters by Joseph T. Owens, President of the Kansas Wesleyan chapter of Pi Kappa Delta, the Forensic Honor Society, and Professor Forrest H. Rose, Coach of Debate at Kansas Wesleyan University.

**First Affirmative, Lowell Small**  
**Kansas Wesleyan University**

Before taking up the discussion this evening it will be necessary for us to understand just what is meant by the term recognition as it has grown up in the usage of international law. To this end let me quote from Pro-

fessor Charles G. Fenwick, Professor of Political Science at Bryn Mawr College. In his book on international law, page 104, he says. "The form of recognition may be either tacit or expressed. It is tacit when an older state enters into official intercourse with a new state by sending diplomatic representatives to it, concluding treaties with it, acknowledging its flag, and otherwise entering into negotiations with it. Recognition is expressed when a definite and explicit statement is made by which the membership of the new state is secured." All other authorities whom we have been able to investigate seem to concur with this definition. Hence, we have accepted this as the meaning of the word recognition as it is used in our question for discussion.

We of the affirmative believe that there are certain problems which may arise in this debate which have absolutely no bearing on the real question at issue and do not properly belong in the debate. The first of these is any argument as to the form of the Russian government. When Charles Evans Hughes formulated the American policy of non-recognition toward Russia—and I wish to call to your attention that Mr. Hughes is a strong Negative authority—he said that the form of the Russian Government did not enter into the policy of the United States in its relation to Russia. He said, "We recognize the right of revolutions and do not attempt to determine the internal concerns of other states." He quoted from Thomas Jefferson in his fundamental policy: "We surely cannot deny to any nation that right whereon our own government is founded.

That every one may govern himself according to whatever form he pleases." This policy was further reiterated by Secretary Kellogg on page 661 of the 1926 World Almanac. Therefore, any discussion as to the form of the Russian government or the internal policies of that government, in so far as they do not affect nationals of other countries, is absolutely beside the question.

Now in any discussion of the advisability of recognition or non-recognition of any country, it is necessary to have an understanding of the prerequisites of recognition. Julius Goebel, in his book, *The History of the Recognition Policy of the United States*, written under the tutelage of John Bassett Moore, says that there are two prerequisites for recognition: first, stability. Our own state department has practically admitted the stability of the Russian government, and has in no way withheld recognition because it believes that the Russian government is unstable. Therefore, we believe that any argument as to the stability of the Russian government is also irrelevant to the question.

The other prerequisite of recognition is willingness to assume international obligations. We will admit that at one time Russia failed to meet this requirement, but we believe and we shall prove to you in the course of this debate that to-day, Russia has changed and that she is willing to assume her obligations now,—thus fulfilling the necessary prerequisites of recognition. Now we demand that the negative meet us on this ground, and it will fall upon them to defend the state department's action, not in 1918 but in 1926. So the question arises, immediately:—Is Russia ready to assume her

international obligations? We believe that Russia is showing that willingness.

On December 19, 1923 President Coolidge, speaking before the Senate, said, "Whenever there appears any disposition to compensate our citizens who were despoiled and to recognize their debt, whenever the spirit of enmity towards our institutions is abated, whenever there appears works meet for repentance, our country ought to be the first to go to the aid of Russia."

In reply to this statement of the attitude of the United States, Tchitcherin, the Commissar of Foreign Affairs of Russia, said: "It has been the constant endeavor of the Soviet Government to bring about the resumption of friendly relations with the United States of America. It has repeatedly announced its readiness to enter into negotiations with the American government, to remove all misunderstandings and differences between the two countries. The Soviet government informs you of its complete readiness to discuss with your government all problems mentioned in your message. As to the question of claims mentioned in your message, the Soviet government is fully prepared to negotiate with the view toward its satisfactory settlement on the assumption that the principle of reciprocity will be recognized all round. The Soviet government is ready to do all in its power to bring about the desired end of renewal of friendship with the United States of America."

In answer to this, Secretary Hughes said; "There would seem to be at this time no reason for negotia-

tions." "The American government has not incurred liabilities to Russia."

Our interpretation of these letters is merely this: President Coolidge laid down certain requirements for Russia to meet. Russia stated her willingness to meet these requirements *if* the United States in turn would acknowledge Russia's claims. The United States, however, took the stand that Russia had no claims on the United States. Let us make this absolutely clear. President Coolidge stated that we should recognize Russia if Russia would settle the claims of the United States. Tchitcherin said, "As to the question of claims mentioned in your message, the Soviet government is fully prepared to negotiate them with a view toward the satisfactory settlement." Then we answer that we do not owe Russia anything. *She* can pay if she wishes to.

The situation then comes down to this. If Russia had valid claims on the United States at the time that she said she would settle if those claims were recognized, then the United States should have acknowledged those claims, and should have made some definite steps toward their settlement. If the claims of Russia were not valid, then the United States was justified. During the remainder of my speech it will be my purpose to show that Russia did have valid claims on the United States, and my conclusions will necessarily be that those claims should be satisfied.

These claims will mostly fall under one heading namely intervention in the internal affairs of Russia, which is absolutely contrary to international law. Rus-

sia has four reasons which we believe to be valid for making these claims.

First of all America aided anti-Soviet factions.

In 1917 there was no stable government in Russia, numerous factions were contesting for supremacy. Kolchak in the east, Wrangel and Denikin in the south, and the Bolsheviks at Moscow—all claimed to be the real government. Of these Wrangel and Denikin were outspokenly monarchistic, while Kolchak was more or less in favor of a moderate democracy. Now it is the right of any nation to carry on an internal change of government and to decide that change in any way it sees fit. Furthermore, it is the duty of other nations to take no part in such internal conflicts, and yet in spite of this fact, the Allies, including the United States, aided Kolchak, Wrangel and Denikin against the Bolsheviks. As proof of this allow me to quote from Gibbon's *Introduction to World Politics*, page 450. "British, French and Greek military missions and troops were with Denikin. Kolchak had Japanese aid and Americans guarding his lines of communication."

Again from the same author, page 447. "The armistices were signed, yet the Entente powers, including the United States, did not withdraw their troops from Russia. On the contrary, they adopted the attitude that the Soviet government was the enemy of mankind, and did all in their power to aid counter-revolutionary movements."

But not only did we aid others, we even went so far as actually to carry on war against the Russians. That

is proved by letters which were written home from soldiers in Russia. Take this quotation from a letter from Private Traeumer published in the *Literary Digest*, February 8, 1919, three months after the armistice had been signed. "I suppose you want to know who we are fighting; well, we're up against the Bolsheviks." Here is another one from Corporal Lawrence Simpson: "We have been chasing Russians and opening up the line of communication from a certain port to a certain town inland. I have seen some action and have been under fire several times, details of which I cannot give." Later in the same letter he says: "Have been moving from place to place [in] an engagement with the enemy here and there; have taken numbers of prisoners." Take also this quotation from Lieut. Ray Jonson: "While our little war with Germany is over, our little war here is still going on."

In a statement made by Ralph Albertson in the *New Republic*, November 1919, he said: "Everywhere on every occasion I was asked persistently, 'What are we here for?' The armistice is signed; why are we fighting? We don't want Russia. What have we against the Bolshevik?"

Now, Ladies and Gentlemen, out of all this warfare there has naturally come the claim on the part of Russia that the United States is responsible for lives and property destroyed in Russia. American troops took part in internal conflicts, American troops carried on warfare against the Russians, months after the armistice was signed. These same troops destroyed Russian property and killed Russian citizens. For all these reasons, we

believe that the claims which Russia makes against the United States are valid.

But if time permits allow me to mention just one other matter, that is, the payment of Russian debts. The United States has demanded that the present government pay all of the debt owed by the old Tsaristic government plus the Kerensky loan. Now consider, Ladies and Gentlemen, Russia claims that it is not fair to ask her to pay all the Tsaristic debts without discussion when Poland, Latvia, Esthonia, Finland, and Bes-sarabia, are no longer within her boundaries. Again, can America fairly contend that the Soviet government must pay back that part of the Kerensky loan which never reached Russia, or was used by Kolchak against her? Here, again, is another claim of Russia which we of the affirmative believe to be valid.

Now to sum up briefly: There are two prerequisites to recognition: Stability, which must be admitted, and willingness to assume international obligations, which we have proved Russia is ready to do, if the United States would consider Russian claims. Now the entire discussion comes down to just this: If the claims which Russia makes are valid, they should be settled. My colleague in his speech will show you that recognition is the logical means of settling them.

Second Affirmative, Bruce Perrill  
Kansas Wesleyan University

MR. CHAIRMAN, GENTLEMEN OF THE NEGATIVE,  
LADIES AND GENTLEMEN: My colleague in his construc-



tive argument has proved that in the United States, there are but three prerequisites for recognition. The first of these is stability, and it must be admitted at the very outset that the Russian government is stable; the second prerequisite is consent of the governed, and my colleague has proved by quotation from ex-Secretary of State Hughes, that the United States to-day admits that for all practical purposes the Russian government has the consent of the Russian people; the third prerequisite is willingness to meet international obligations. My colleague has proved by direct quotation from the Russian officials, and by actual fact that Russia to-day is ready and willing to meet her international obligations, and has, therefore, lived up to the list of requirements for recognition. There can be no valid reason, then, at the present time for not recognizing Russia.

But more than the mere fact that there are no reasons why we should not recognize Russia, there are real positive reasons why we should recognize her government. The first of these with which I wish to deal is that recognition is necessary to the settlement of certain difficulties, which at the present time exist between the two countries. My colleague has proved the existence of these difficulties but let me hastily call them to your attention. First, the United States took sides in internal conflicts of Russia, giving aid to one faction and refusing aid and supplies to another; we even went so far as to have American troops on Russian soil fighting the Russian government long after the armistice was signed; these same troops took terrific toll of Russian life and property for which satisfactory settlement must

be made; and, lastly, the American estimate of the Russian debt to this country can only be settled by a consideration of claims and counter claims. For all of these things, Russia is demanding satisfactory settlement.

Now in settlements of all kinds, in local law, in international law, in our dealings with our neighbors everywhere, there is one thing which is common and absolutely necessary to all—good faith. The basic principle of all our business relations, of all our diplomatic relations, is good faith. And yet in the past the United States has gone directly against this principle. I ask you, in all fairness, can we, in such a disregard of the very foundation principles of negotiations, such a dictatorial attitude as the one the United States has taken, ever hope to settle anything? Mr. Louis Fischer, American jurist and lawyer, wrote from Moscow, January 22, 1925, "Mr. Hughes' policy toward Russia, China, and Japan has been of the same cloth. . . . By it he has alienated all three."

Ladies and Gentlemen, the attitude to which the United States has blindly held is fallacious; by it we can never hope to settle anything. Russia has shown her willingness to settle; she has admitted her guilt; she has asked to be recognized. And the United States has refused to grant her even a showing of fair play. These things have all worked together to destroy Russia's faith in the United States. Now the only way to bring about the desired change and establish good faith between the two is for the United States to recognize the present government of Russia. There can be no settlement without recognition; whereas with recognition,

and subsequent good faith, settlement becomes merely a matter of agreement over claims.

Now we do not say that this settlement will come overnight. It will not; it may take months; perhaps years. It has taken us a long time to settle our difficulties with France and England, with whom we had never had any serious difficulties. But these settlements came as a result of long negotiations which could only come after recognition. Without these negotiations we could not have settled anything; and, without recognition of Russia, we can no more hope to settle the difficulties with that country. Furthermore, we contend that those countries which have recognized Russia have made definite steps toward settlement. That recognition will lead to some constructive action is no idle assumption.

Let us consider some of the treaties drawn up between other countries and Russia and see exactly what the result has been. Take first the English treaty. In Article six of this treaty, Russia agrees to the just debts due England by the Tsaristic régime, although she is financially unable to pay immediately. In Article seven Russia agrees to repay British nationals for confiscated property; and, later in the same article, it is agreed that the final settlement of all claims shall be at a later conference. Article eight provides that since the British claims are admittedly in preponderance the final settlement shall be the payment of a lump sum to England by Russia, the amount of this sum to be agreed upon at a later conference. Articles nine and eleven provide explicitly for this later conference. Now the opposition, or some of you, may be asking why was all this left to

a later conference. Here is the reason. These men were jurists, not economists. They were appointed to draw up a treaty and not to discuss economic details. The accumulation of the detailed facts concerning the difficulties between Russia and Great Britain would take months, perhaps years, and it was no more than logical to leave the discussion of these matters to a committee especially appointed for that purpose. But the important point in this treaty is that England and Russia through recognition and the following negotiations made steps toward settlement which could have come in no other way.

France recognized Russia late in 1924, and with what result? Take this quotation from Mr. Tchitcherin, Commissar of Foreign Affairs, printed in the *New York Times*, December 15, 1925, "I am very well pleased with the result of our conversations with the French political leaders and influential persons in all pursuits." He goes on to say that although entire settlement has not been made, plans for settlement are being arranged, and he is confident that his people will accept the French terms. And take this quotation from the *New York Times* as late as February 13, 1926, less than a month ago, "Part of the delegation which is to open negotiations with Paris on the Russian debt to France arrived in Paris this morning." This proves conclusively that France, through recognition and the negotiations which immediately followed, made steps toward settlement, and that they are at the present time nearing the completion of those negotiations.

Now in regard to China and Japan, allow me to quote

from a letter of Mr. Chao Yin Shill, who was recommended to us by the Chinese Ambassador as a competent authority of Russian actions in the Near East: "In her relation to the Far Eastern powers Russia has never pursued a policy of repudiation of debts. . . . Russia cannot be said in any way to have neglected to live up to her international obligations in the Far East." Here is another example of recognition bringing about satisfactory diplomatic relations between the recognizing countries and Russia.

Now, since it has been true in all these cases, we are justified in assuming that the United States, too, could settle her difficulties with Russia, if she would only recognize her, thereby establishing good faith and friendly diplomatic relations between the two countries. Mr. Louis Fischer has said in this very connection: "Given recognition and the subsequent good will, negotiations with the Bolsheviks should present few difficulties."

These disputes exist. They must be settled. Senator Borah, in a speech before the Senate, May 15, 1922, said, "There [are] 180,000,000 people (in Russia) absolutely necessary to the restoration of normal conditions in Europe. So long as the Russian situation remains unsettled, other matters in Europe must remain unsettled." Recognition is the only means by which Russia and the United States can settle these disputes which exist between them. Hence, here is a real, positive reason why we should recognize Russia.

Now the second reason why we should recognize Russia, is that economic advantages would accrue to

both countries. Russia to-day is in the need of outside capital to develop her natural resources. Do not misunderstand me. I do not say that Russia is tottering on the brink of ruin. Far from that, she can and will exist without the aid of outside capital. But she can never *develop* to the greatest extent without this foreign capital. Russian oil, mineral deposits, fur, timber, manganese—these are only a few of the great natural resources of Russia, awaiting the development that only outside capital can bring. America, to-day, has that needed capital, and Americans are looking to Russia as the logical place for the investment of that capital. However, they are barred from Russia because they cannot afford to invest without the security that only recognition can give.

Sinclair had concessions in Russia but was driven out by Japanese investors, who had the protection of recognition. The Anglo-American Company is composed of Americans who have gone to England, invested in Russia under an English Charter and an English name, and as a result, England, to-day, is reaping the benefits of American capital. The soviet principle of joint ownership and development of natural resources between the investor and the government, brings about a relation which demands recognition. This principle is not socialistic; it is not Bolshevistic. It simply protects the Russian people from the exploitation of their natural resources, a condition which in this country has brought about all too well known trouble. This system gives to the investor all the advantages of an attractive investment, and Americans are clamoring for a share in it.

But, until we recognize the Soviet government, they cannot invest in Russia.

Russia needs our capital; Americans desire to invest this capital there. In refusing to recognize Russia in the face of the facts as they exist, America is not playing fair with the Soviet government; she is not playing fair with her own citizens. Here is another real positive reason why the United States should recognize the present government of Russia.

Now to sum up: There are in America, according to Julius Goebel and John Bassett Moore, three prerequisites for recognition. These are: First, stability, and it must be admitted at the very outset that the Russian government is stable. Second, the government must be ruling with the consent of the governed, and according to Secretary Hughes, a very strong negative authority, Russia has met this prerequisite. The final prerequisite is willingness to carry out international obligations, and my colleague has shown that to-day Russia is ready and willing to meet all of her international obligations. Therefore, because she has met all the requirements for recognition, there can be no real objection to recognition and Russia should be accorded this consideration.

But more than the mere fact that there are no reasons why we should not recognize Russia at the present time, there are real positive reasons why we *should* recognize Russia. First, only through recognition can we settle the disputes which have arisen between the two countries. Second, economic advantage, which can come only after recognition, would accrue to both countries.

Therefore, because there are no reasons for not recog-

nizing, and because there are reasons why we should recognize, we of the affirmative believe that we have established our case and that the United States should recognize the present government of Russia.

**First Affirmative Rebuttal, Lowell Small**  
**Kansas Wesleyan University**

LADIES AND GENTLEMEN: You will recall that at the outset of the debate we pointed out that there were two prerequisites of recognition. First stability, and second, willingness to assume international obligations. The gentlemen of the negative would add a third, namely, the consent of the governed. Now the negative has openly admitted stability without any argument. Now as to their third prerequisite, the consent of the governed, our state department is not withholding recognition from Russia because it believes that the Russian government does not have the consent of the Russian people. Why should the gentlemen of the negative argue this point when the department with whom recognition lies, does not even so much as consider it. In addition to that we can show that this has never been one of the prerequisites of recognition. If it has been, then will the negative please tell us how it has ever been possible to recognize any monarchical form of government? It would be only a waste of time to name the monarchies which we have recognized in the past. Thus we see that this has never been a prerequisite but is merely a theoretical one brought up by the negative as a talking point. And in addition to all this argument con-



sider this! Mr. Charles Evans Hughes says, "We cannot deny that a long continued period of acquiescence is not tacit consent of the people." No one can deny this period of acquiescence in Russia.

The debate we see has taken a peculiar turn this evening. The gentlemen have admitted the first prerequisite. I have shown that their second one has absolutely no weight so at the outset the presumption is two-thirds in favor of the affirmative. Now there remains but one other point for us to strengthen, that is willingness to assume international obligations. If we can show this then Russia has lived up to all the prerequisites and there can be no reason for withholding recognition from Russia.

In my constructive speech I quoted from Tchitcherin's letter showing that Russia was ready to discuss all problems and negotiate with a view toward the satisfactory settlement of all claims. Then the first negative speaker in his rebuttal asks, "Has Russia actually acknowledged its debts and shown a willingness to return stolen property?"

Allow me to call to your attention that he is overlooking one important sentence in Mr. Tchitcherin's letter. He said, "We assume of course that the principle of reciprocity will be recognized all the way around." Now the negative is purposely not taking this into consideration. They blindly demand Russia to pay back all the money owed the United States without so much as even negotiations to talk over what the exact amount should be. In my constructive speech I spent much time showing that Russia is holding claims against

the United States. Thus far in the course of the debate the negative have not even mentioned them. They have not denied them nor have they discussed them. It seems that for some reason they would rather not consider them. But Russia has these claims and I have shown that they are valid. Now they are forced either to show that these claims do not exist, in spite of the evidence I have shown, or they must admit that they exist and show that there is a better way to settle them than by recognition. Why is it that the negative are so very anxious that Russia satisfy our claims, yet we pay no attention to those which Russia has against us? Again, how can they demand that Russia pay all her debts without even so much as allowing her any settlement as to the amount owed, when we in turn owe Russia for having our troops on her soil, destroying her property, and killing her citizens? We have never so much as even recognized these claims which Russia has on us. In view of this it is easy to see why Tchitcherin asks that the principle of reciprocity be recognized. In other words Russia is ready to assume her international obligations and live up to them just as soon as the United States is ready to do the same. If we want a satisfactory settlement we should be as willing as is Russia to assume our obligations. And until we have done so we cannot expect Russia to pay everything as charged against her by the United States. Can we demand Russia, without a word, to pay back the debts of the Tsaristic government when much territory, such as Poland, Latvia, Esthonia, Finland, and Bessarabia have been taken from her? Again, is it fair to ask her

to pay back that part of the Kerensky loan which either never reached her or was used to fight against her? Why do we not negotiate with her before we demand settlement as we have done in many other instances, such as, Germany, Mexico, France, and England. Thus, we can see that as soon as we are ready to play fairly and squarely with Russia, she will do the same with us. When we assume our obligations, she is willing to assume hers, and whenever we recognize her claims upon us she will recognize and pay our claims. Russia has tried settlement and we refused. Now it is the United States' turn to take the next step and provide a satisfactory means of settlement.

Since we have shown that Russia has met all the prerequisites, there can be no real reason for withholding recognition any longer from Russia.

### Second Affirmative Rebuttal, Bruce Perrill Kansas Wesleyan University

The second speaker for the negative, both in constructive argument and in rebuttal, has admitted that recognition is the only way to settle the disputes between the United States and Russia. By such an admission he has granted the existence of the claims. The clash then comes over the probability of settlement. Would settlement follow recognition? This I have proved in my main speech, but my opponent in constructive argument and again in rebuttal has brought forth bug-bear propaganda arguments which I wish to refute.

He says that settlement has not followed in all cases. But, Ladies and Gentlemen, he is unreasonable. After non-recognition had not been able to settle anything in six, or even eight, years, he expects recognition to settle in a year or else he says it has failed. But I call your attention to the fact that we could not settle with France and England in as long a time even with recognition. Our argument was not that recognition would settle immediately, but that only through recognition could settlement come. And the gentleman has admitted this, therefore our argument stands and his argument was beside the point.

Now to take up the constructive argument of my opponent: His first point was that Russia has not carried out her promises. In every case she has not. But neither has France, England, Italy, and many others. Before he can say that Russia has been at fault for not carrying out all of her promises he must show that she has not tried. This he cannot do. Russia has carried out her part of the bargain. He said that the English treaty, which he admits would have been settlement, was not ratified. But he fails to tell you that it was England and not Russia which did not ratify that treaty. Also he forgot to tell you why it was that England did not ratify. The reason was the Zimoviev Letter, a letter forged and circulated in England, for political purposes, and which was a lie in every sense of the word. In regard to his argument about things which Russia has done which prove her untrustworthy, here he used only hearsay and propaganda, instead of proof. He asserts that Sir Austen has "accused" Russia of not

living up to her promises; That Lord Birkenhead "declared" that Russia was doing so and so in India; but he quotes no authority or source for these statements. This is not proof. In the light of past experience with propaganda such as the Zimoviev Letter, and the Marfins Case, cited on page 80 of Volume 14 of the *Annals of the American Academy*, we can not accept the proof of my opponent. His argument falls for lack of evidence. In any court a man is innocent until proved guilty; and just so Russia is innocent until proved guilty.

Next my opponent stated the same to be true of France and Russia. Again he uses propaganda, but no facts to prove Russia untrustworthy. Whom does he quote? Isaac F. Marcossou, a very prejudiced authority. And in the light of the amount of lies which certain persons have been spreading concerning Russia, we cannot accept this as authority. But Edward Alsworth Ross in a book dedicated to "those who are tired of being fed lies about Russia," says that Russia offered to let any arbitration board look into their actions to try to find anything detrimental to Russia. And this board was forced to admit that Russia had not been spreading propaganda but using their money and influence for the betterment of relations between the two countries. This discounts my opponent's stories about Russia and again his argument falls for lack of evidence.

Next, my opponent said Japan had not settled anything. But the fact remains that a treaty was drawn up and ratified as a direct result of recognition, and ratified by both countries. The Japanese Minister of

Foreign Affairs said in a speech printed in the January number of the magazine, *Foreign Affairs*, "Our relations with Russia have been entirely satisfactory. I hear rumors that Russia is not living up to her promises in North Manchuria, but I find no evidence upon which to base any credence in these reports." Thus we see that again the negative have not based their case upon facts.

Now let us sum up to-night's discussion. We have agreed upon the prerequisites of recognition. The first is stability and has been admitted without argument. The second is consent of the governed and according to a statement of Ex-Secretary Hughes Russia has met this requirement. The last is willingness to carry out international obligations. My colleague has proved by direct quotation from the Russian officials and by actual fact that Russia to-day is ready and willing to carry out her international obligations. The negative say that this is mere lip service, and that Russia is untrustworthy, but I have shown you that their assertions will not stand for lack of proof and evidence. Therefore, we of the affirmative believe that we have established the fact that Russia has lived up to all of the prerequisites of recognition. Since this is true there can be at the present time no real reasons for not recognizing Russia, and, therefore, we should recognize her.

But more than the mere fact that there are no reasons why we should not recognize, there are real positive reasons why we should recognize Russia. First, only through recognition can the disputes which exist between the two countries be settled. The negative have

admitted the existence of the claims, but doubt that recognition will settle them. But I have shown that other countries have made steps toward settlement, after recognition, and, therefore, we are justified in assuming that Russia would settle her difficulties with the United States if given an opportunity. The negative *doubt* this. We have proved a possibility. The past eight years have proved that non-recognition will not settle anything. Therefore, why not take this possible means, especially since there are no reasons at present for withholding recognition.

The second reason why we should recognize is for the economic advantage to both countries. My opponent has talked of trade, but this is not what my speech took up. He in no way refutes the fact that recognition is necessary before capital can go into Russia. Therefore, this argument stands.

Our argument that Russia has met the prerequisites of recognition still stands. We have shown that much is to be gained by recognition. Therefore, we of the affirmative believe that we have established our case and that the United States should recognize the present government of Russia.

First Negative, Newell Terry  
Kansas Wesleyan University

In opening the case for the negative, we wish, first of all, to call to your attention the fact that in any discussion of recognition, two important points must always be taken into consideration. One is the question

of what recognition is, and its significance to both governments concerned; the other is the question of the conditions under which recognition can be granted. As first speaker for the negative it shall be my province to show first, what recognition is; second, the conditions under which recognition can be granted; and third, that the present government of Russia does not fulfill those conditions.

In the first place, what is recognition? The affirmative have pointed out that the form of recognition may be either tacit or expressed. On our part, we will not quarrel with them regarding what form recognition may take; but we wish to point out that recognition carries with it a certain definite significance, and it is that significance with which we are concerned to-night.

John Bassett Moore, an authority on International Law to whom we were referred by the Department of State, defines recognition on page 72, volume I, of his *"Digest of International Law"* as: "the assurance given to a new state that it will be permitted to hold its place and rank in the character of an independent political organism in the society of nations." That is, it is an "assurance" or promise that the recognizing state will consider as binding upon itself those international obligations which the recognized state has or may take upon itself. Therefore, from its very nature, it is evident that recognition will only be granted when the recognizing government is confident that the state to be recognized is capable of entering into and carrying on ordinary international intercourse and assuming the obligations of an international state. Furthermore, the



recognizing government will not only require that the government to be recognized shall be *able* to assume international obligations, but will also require evidences to show that it actually will assume those obligations. This evidence, of course, can only be found by examining the past actions and present policies of the new government. When a nation has, in the past, completely ignored these fundamental obligations, mere assertions and promises are not sufficient. Such a nation can demonstrate a change in policies only by putting the new policies into practice. This is why, in the present case, recognition must be based on the actions of the new government, and not on mere words insincerely uttered. And since recognition implies that the recognizing nation has examined the past policies of the new government and found them to be satisfactory, it, therefore, necessarily follows that recognition is an approval or sanction of those policies.

The second point that must be taken into consideration in any discussion of recognition is the question of the conditions under which recognition can be granted. For our authority on this phase of the subject, we refer you to the book entitled, "*The Recognition Policy of the United States*" which is a doctor's thesis, prepared at Columbia University by Julius Goebel under the tutelage of John Bassett Moore. Here Dr. Goebel carefully examines the entire history of the recognition policy of the United States and shows that our recognition policy contains three important conditions which have been consistently imposed upon governments desiring recognition from the United States. First, ~~the~~

new government must be stable; second, it must hold its place with the consent of the governed; and third, it must show an ability and willingness to discharge international obligations.

Recognition, then, carries with it a sanction of the foreign policies of the government recognized; and it can be granted by the United States only when the new government has fulfilled these three conditions. Now let us see how far the present government of Russia meets these requirements.

As regards the first point, we admit that the Russian government is stable. But, coming to the second point, we do not admit that the Russian government is holding its place with the consent of the governed. As a matter of fact, the Russian people have had practically nothing to say with regard to the type or form of their government, and now have practically nothing to say with regard to the conduct of that government. The Russian government is absolutely dominated and controlled by the Russian Communist Party, which party, by the way, contains only slightly more than one per cent. of the total Russian population over eighteen years of age. Consider this statement which appeared in the *Izvestia*, the official organ of the Soviet government: "We are the only legal party in Russia, and we have a monopoly of legality. We do not grant our opponents political freedom. We do not grant the possibility of legal existence to those who pretend to compete with us." Ladies and Gentlemen, if this is the attitude which the leaders in Russia are assuming toward their people, nothing can be plainer than that

the Soviet government is holding its place by force, and not by the will of the people. Thus we see that the Russian government does not fulfill this second condition of recognition.

But the most important condition still remains to be considered. This concerns the international policies of the new government, and here we find that this condition has not only been ignored, but has been violated outright. The Russian government is guilty of three serious violations of international law in that it has repudiated its just debts, has confiscated property belonging to foreigners, and is engaged in the spreading of insidious propaganda which has for its object the overthrow of the established governmental institutions of other countries. These are serious charges, but we believe that we can substantiate them.

The first violation of international law is the repudiation of international debts. In 1917, the United States made a loan to the provisional government of Russia, of \$187,000,000. This loan was made in good faith by the United States and payment with interest was promised at the time. What was the result? On January 21, 1918, the Soviet régime issued a decree which contained the following words: "Unconditionally, and without any exceptions, all foreign loans are annulled." This is outrageous on the face of it! But worst of all is the fact that the Soviets declare repudiation to be the very foundation policy of their government, and they promise to repeat the process whenever it suits their interests to do so. In chapter 2 of the constitution of the Russian Socialist Federated Republic we find

these words: "The Third All-Russian Congress regards the law repudiating debts . . . as a first blow at international financial capitalism, and it expresses its entire confidence that the Soviet government will continue firmly in this direction until the international revolt of the workers against the yoke of capitalism shall have secured a complete victory." The very foundation policy of their government, then, is repudiation of international debts.

Now, according to international law, such debts cannot be repudiated. E. E. Young of the Department of State says in the *Annals of the American Academy*, for July 1924, page 73: "There is no principle in international law so well established as the rule that a government succeeding to power assumes all the obligations as well as the rights of its predecessor." To recognize Russia under these conditions would be to sanction a policy of repudiating international debts as well as of violating international law.

The second violation of international law is the confiscation of foreign property. The so-called nationalization of industry in 1917 and 1918 resulted in the outright confiscation of about \$425,000,000 worth of American-owned property in Russia. Since that time, no attempt has been made to restore this property to its rightful owners or to compensate them for its loss. The Soviets have lost all respect for the rights of other nations and their nationals. Besides being an affront to the United States, this is a violation of international law, for such a process constitutes nothing more nor less than national theft; and if a nation can confiscate

the property of foreigners whenever it pleases, we can never achieve a permanent and lasting peace. To recognize Russia under these conditions would be to sanction the doctrine that a nation can confiscate the property of foreigners whenever it suits her interest to do so. This we dare not do, for we have no assurance that, once recognized, she would not repeat the process whenever she wished.

The third violation of international law is the spreading of revolutionary propaganda in other countries. The present government was founded for the purpose of promoting a world revolution against all the great governments of the world. In their new constitution, under which they are now operating, they declare that they will stand "as the firm bulwark against world capitalism," and that they form "a decisive step towards the union of the toilers of all countries into one World Soviet Socialist Republic." This means that they are sworn to the overthrow of every great government in the world which they term capitalistic. Now, Ladies and Gentlemen, it is not the place of the United States to say what economic doctrines they shall preach in their own country; but it is the place of the United States to refuse to recognize a régime whose avowed purpose is the overthrow of our own government. Moreover, such activities are a violation of international law in that they are a violation of the principle of the sanctity of government.

The affirmative cannot deny that such propaganda does exist in the United States. After a careful investigation by the Committee on Foreign Relations, the

Department of State issued a statement submitting evidence to prove that such propaganda does exist, and that it emanates from Moscow. After a similar investigation, the United Mine Workers of America issued a statement demonstrating an attempt on the part of the Communists to seize the American Labor Movement. The American Legion at its Omaha Convention last fall reported that schools of hate had been established at Brule, Wisconsin, and other places, whose instructors openly advocated the overthrow of the government. These facts, coming from these authorities cannot be lightly laid aside.

Now, Ladies and Gentlemen, one other point remains for me to make clear. I have pointed out what recognition is, and the three conditions under which, according to our established recognition policy, the United States can grant recognition; I have shown that in regard to the two most important conditions, the Soviet government has not only failed to meet the requirements, but has openly violated the conditions; I have shown that these violations of international law are not mere mistakes on the part of the Russian government, but that they are the result of fundamental principles and policies of their government. And I have shown that to recognize that government would be to place our stamp of approval upon such violations of international law as repudiation of debts, confiscation of property, and the spreading of revolutionary propaganda in other countries and against other governments. Now, in opposition to this viewpoint, the affirmative may follow

one of two lines of argument, and we want this point to be absolutely clear. We have pointed out three flagrant violations of international law and of international good will. Now, either the affirmative must prove that these breaches of international law do not exist; or they must admit that they exist and argue that we should recognize in spite of them. In the latter case, they are contending that we should throw aside as useless, all the fundamental tenets upon which are based international law and good faith. We hear a great amount of talk these days about the possibilities of world peace; but if the fundamental principles of international law can be brushed aside at the whim of every nation, nothing can result but chaos.

**Second Negative, Joseph T. Owens**  
**Kansas Wesleyan University**

Allow me to call to your attention that my colleague has proved that the American recognition policy is to recognize a government only when that government has fulfilled three conditions: namely, the government must be stable; it must have the consent of the governed; and it must show ability and willingness to discharge its international obligations. Moreover, he has proved that the Soviet government does not fulfill the last two of these requirements. In other words, he has proved that the government does not have the consent of the Russian people, and that it has not shown a willingness to discharge its international ob-

ligations. For these reasons, we of the negative maintain that the United States should not recognize the present government of Russia.

But laying aside the fact that the Soviet government does not have the consent of the Russian people, and laying aside the fact that it has not discharged its international obligations; in fact, laying aside the whole speech of my colleague, let us consider for the time allotted, the possible results of recognition. It must be borne in mind that recognition is not only an end in itself, but that it is a means to an end. Using recognition as a means to end, that of settling the apparent disputes which exist between Russia and the United States, what possible good could come from recognition? If it could settle these existent problems, we of the negative would be as desirous of recognizing Russia as are our friends of the affirmative. But we are convinced that given recognition, Russia would prove as untrustworthy in the future as she has in the past. Now we are aware that Tchitcherin and certain other Russian officials have declared that the Soviet government desires to settle the questions of debt, confiscated property, and propaganda. We know that they have said these things, but we have yet to see any instances where they have tried to carry out their promises. Although they have promised much, their actions belie their words. Now this is a strong charge to make against a government, but we believe that we can establish it. Let us consider the actual effects of recognition in regard to other nations which have recognized the government of Russia.

England took this step in 1924, but has recognition



brought about good faith or settlement in this instance? We believe that our friends of the opposition cannot bring forward one single instance of settlement of the questions of doubt, confiscated property, and propaganda.

In July of 1925, Sir Austen Chamberlain, British Foreign Secretary, declared that the Soviet government was not living up to its promises concerning propaganda. He accused the Soviets of attempting to overthrow the British government, contrary to their promises.

On July 25th, 1925, Lord Birkenhead, British Secretary for India, declared that the Soviet government was attempting to disrupt the British empire, basing his charge upon actual propaganda carried out in India.

But let us take up a more specific case of propaganda which occurred in England recently. On November 25th, 1925,—that is only a few months ago—the English government prosecuted and convicted twelve communists for inciting mutiny and sedition. In the trial it was proved that these men were paid from Russia. This is no mere rumor. The men are in prison to-day. For my authority on this, I submit Professor Arthur B. Darling of Yale University, who writes each month in the *Current History Magazine* in regard to the Russian situation.

Apparently, Russia is not proving trustworthy in the case of England, as far as propaganda is concerned.

But let us look at the matter of debts. In 1924, Russia promised to pay England some of the debt which Russia owes England IF,—and here is the IF—if England would make Russia a loan. In other words, "Pay

me, and I'll be good." That was the attitude of the Soviets. But the significant thing about the negotiations is this: at the very time the negotiations were being carried on, this statement appeared in the *Izvestia*, the official publication of the Soviet government. "We cannot promise MacDonald that we will keep our word concerning the payment of principal and interest on this loan if a revolution comes in England. Moreover, we promise him that we will break it, and once more repudiate our debts, although we cannot yet set a date for the English revolution."

In view of this statement, and in view of the continued violations of treaties and promises by the Soviet government, the English people caused a new election to be held, overthrew the MacDonald government, and absolutely refused to grant the Soviet government another loan to be repudiated at its pleasure.

Another significant thing which comes out of the negotiations between Russia and England is that Russia indicates that the policy of repudiation of debts is still in existence. The Soviet government promised to pay certain of its debts to England "in exception to our policy of repudiation." As the Soviets made an exception to their policy of repudiation no further back than 1924, that policy was in existence at that time. And there has been nothing on the part of the Russian government which would indicate that there has been any change in this policy.

Certainly, no one would say that recognition has brought good faith and settlement in the case of England. And the fault lies in the Soviet government, be-

cause it broke its word and violated its treaties at every turn.

But let us take up the case of another country which has recognized the Soviet government. In 1924, France granted recognition to Russia, but here again, we believe that our friends of the opposition cannot bring forward one single case of settlement of questions of debt, confiscation of property, and propaganda. We have tried to study the effects of recognition with regard to France, and we find that instances of settlement do not exist. Again the promise of the Soviet government have amounted to nothing. Let me read to you this quotation from Professor Arthur B. Darling of Yale University, taken from a personal letter dated January 20th, 1926. "England and France have both recognized the Soviet government but have by no means settled their difficulties." Isaac F. Marcossou, a man who has spent several years in Russia and who has written several books on the Russian situation says in the *Saturday Evening Post* for January 23rd, 1926, "Herriott did, however, bring about French recognition of Moscow, the folly of which is now fully realized. Recognition only gave the Bolsheviks a good opening, under the guise of official relationship, for propaganda, and penetration despite their solemn promises to abstain from it. . . . This is precisely what followed British recognition of the Soviet government. . . . Wherever I went in France and England last Summer (1925), men in public and private life bewailed the recognition of the Soviet government, and commended the American attitude which stands pat against it."

William Stearns Davis, Professor of History at the University of Minnesota, who writes each month in the *Current History Magazine* in regard to France, says in a personal letter dated January 27th, 1926, "French recognition of the Soviet government has resulted in nothing but bickering and disappointments. France has not gained any repayment or promise of repayment of the Russian debts. France has decided that there is little to be gained by closer relations with Russia."

In the light of these facts, Ladies and Gentlemen, we can conclude only that the promises of the Soviet government have amounted to nothing more than lip-service.

But let us take up another nation which has recognized the Soviet government. Japan recognized the Soviet government in 1924 but again we find that there are no instances of settlement. The Soviet government, as in other cases, merely deferred the matter of debts and confiscated property to subsequent negotiations. That was in 1924, and those negotiations have never taken place. True, the Soviet government has promised much; the words of Tchitcherin are voluminous; but in actual fulfillment, in actual results, we find the Soviet government lacking. They promise much, but prove themselves entirely untrustworthy when it comes to fulfilling their promises and obligations.

Now let us briefly review the negative case. We have contended that there are three conditions for recognition, and that the Soviet government has not fulfilled the last two, in that it does not have the consent of the governed, and that it has failed to discharge its

international obligations. Moreover, we have proved that we should not recognize the present government of Russia, because recognition could not accomplish a thing in the way of bringing the disputing countries closer together.

First Negative Rebuttal, Newell Terry  
Kansas Wesleyan University

MR. CHAIRMAN: You will remember that in our constructive argument we pointed out that before the United States can grant recognition to a new government, three important conditions must be fulfilled by that new government. The first of these is stability. Our opponents have assumed the stability of the Soviet government and this is perfectly satisfactory to the negative; we are willing to admit it. The second condition that we pointed out was that the new government must be ruling with the consent of the governed. The affirmative have contended that this second condition has been met by the Russian government and that that government is ruling with the consent of its people. We of the negative, however, fail to see how any government controlled by a party which contains only slightly more than one per cent. of the population over eighteen years of age and which refuses to grant the possibility of legal existence to any other party can be said to be ruling with the consent of the governed. However, lest there should still be some question in your minds on this point, let us examine for a moment something of the methods used by that government to hold

its position as the ruling power of that country. Senator Burton K. Wheeler in a speech in the Senate on June 2, 1923 threw some light on this subject although quite unintentionally for Mr. Wheeler is a very strong affirmative authority. We quote directly from the speech as printed in the Congressional Record: "The Soviet government *with an efficient and well-trained army of six hundred thousand* loyally supporting it, absolutely controls and will continue to control the situation so far as any thought of changing the form of government is concerned. . . ." Here we believe we have the heart of the matter in a very few words. The Soviet government is stable—that is, it is able to hold its place as the ruling power, but it is able to do this only, as Senator Wheeler says, "with the aid of an efficient and well-trained army." The Soviet government is not holding its place by the consent of the governed; it is compelled to resort to the use of force to hold its power. But more, there are in Russia at the present time very definite and quite extensive organizations whose one great purpose is to secure the overthrow of the present Soviet régime. According to a special dispatch to the *New York Times* dated as late as March 11, 1926 and giving the details of a trial for military espionage of forty-eight Estonian Russians, most of the defendants voiced the following anti-Communist program which shows a marked faith in the peasantry (quoting directly from the dispatch): "Tearing the peasants from the clutches of the Communist Party, establishing Soviets without Communists, and creating a Socialist republic by a peasant rebellion and new, outside intervention.

Testimony at the trial revealed renewed anti-Soviet activities along the frontier of the Baltic Republics especially in Esthonia. . . .” Ladies and Gentlemen, if time permitted, we could cite many more instances of a similar nature, but we believe we have sufficiently proved that the Soviet government is not ruling with the consent of the governed and that the United States cannot afford to violate its recognition policy by recognizing that government until it demonstrates that it is satisfactory to its own people.

Now, the third condition which we pointed out as being a necessary prerequisite to recognition was expressed also by Secretary Hughes when he said, “the fundamental question in the recognition of a government is whether it shows an ability and a disposition to discharge international obligations.” The affirmative have contended that Russia does have that willingness and in support of their contention, have quoted the message of Tchitcherin to President Wilson in December of 1923. We contend, however, that this does not prove their point for in this message Tchitcherin did not acknowledge the Russian debt nor promise to compensate Americans for the loss of their property or to return it to them, but only to discuss the matter. Here is what he said in the message which they have just quoted to you: “The Soviet government . . . informs you of its complete readiness to discuss with your government all problems mentioned in your message. . . .” And again: “As to the question of claims . . . the Soviet government is fully prepared to negotiate with a view towards their satisfactory settlement. . . .”

We ask for evidence to show that these policies have actually been abandoned at Moscow, and not for mere promise to discuss the matter further. As Secretary Hughes said in his reply to this message "it requires no conference or negotiations to accomplish these results which can and should be achieved at Moscow as evidence of good faith."

Ladies and Gentlemen, we believe we have established our case that the United States should not recognize the present government of Russia because that government has not met the conditions for recognition, and also because, as my colleague has shown, no appreciable good could be accomplished by a recognition of that government while, on the other hand, to recognize that government would be to place our stamp of approval upon a government whose very policies include the repudiation of international debts, the confiscation of property belonging to foreigners, and the spreading of insidious propaganda with the avowed purpose of overthrowing the governments of other countries. You will remember that in our constructive argument, we pointed out these three flagrant violations of the principles of international law and asked that the affirmative meet us fairly on this point. They must either prove that Russia is not guilty of these violations or they must show some valid reason why the United States should be willing to repudiate these principles of international law and justice ourselves and recognize the Soviet government which is openly hostile to our own government and bent upon its overthrow. Ladies and Gentlemen, we believe this to be



a fair burden of proof, and we ask that they accept it and meet us fairly on this ground, for, unless some very grave reasons can be shown for abandoning our recognition policy and the principles of international law, the United States should not recognize the present government of Russia.

Second Negative Rebuttal, Joseph T. Owens  
Kansas Wesleyan University

LADIES AND GENTLEMEN: The second constructive speaker of the opposition has stressed the fact that good faith is absolutely necessary to any permanent settlement. Now we of the negative admit this fact but we believe that we have proved that it is the Soviet government which has destroyed the good faith which should exist between Russia and other nations. Therefore, the argument that recognition would bring good faith is unfounded because it is Russia who has proved herself untrustworthy as I showed in my constructive speech.

The first main point which the second speaker of the affirmative made is that recognition is necessary to the settlement of difficulties between Russia and other nations. In order to prove this point he has cited to you the cases of England, France, and Japan. In regard to England, he has based his argument upon a treaty which was never ratified and which as I showed in my main speech was drawn up by the Soviet government in order to get a loan from England. When England refused the loan, the treaty dropped and at

the present time the Bolsheviks do not admit that they owe England anything. Furthermore, I showed you several incidents which took place in the last year, later than this treaty, which show that England has gained no settlement by recognition.

In regard to France, it is true perhaps that Tchitcherine is satisfied with the results of the French negotiations, but the question is,—are the French satisfied? In my main speech I proved that no settlement had been effected, and as William Stearns Davis, of the University of Minnesota, said on January 27, 1926, "France has decided that there is little to be gained by close relations with Russia." It is true that a Soviet delegation did go to Paris in February of 1926 and at the very time of their arrival, Rakowsky, the French minister, declared that "the Soviets having legislated debts out of existence, cannot recognize them." If a loan can be secured the Soviets may make the concession of recognizing some of their debts, but their own selfish interests are first. As Rykof, at the present time Premier of the Soviet Government, said in the *Izvestia*, "We never refer to juridical or international law, but always to our own interests."

The third country which our friend of the opposition mentioned is Japan. He declared that Russia had never repudiated any debts to Japan. The reason is obvious. Russia owed Japan nothing. I proved, however, that she did repudiate her debts to Japan and that these debts have not been recognized. My authority for this is Professor Alfred Dennis, of Clark University.

In view of the actual facts in regard to recognition

by the Soviet government, we believe that we have proved that recognition will not bring about settlement of difficulties as long as the Soviet government continues to hold blindly to its policy of repudiation, confiscation, and world revolution.

The second main point which the gentlemen of the opposition advanced in their last constructive speech is that America should recognize in order that capital might be invested in Russia. Now it is true that Japan recognized for oil concessions in Sakhalin, and that England recognized in order to gain commercial advantages, but we of the negative do not look upon these motives as just reasons for recognition. The idea of investment and increased trade is wholly foreign to the purpose of recognition, which is as my colleague showed a means of placing a stamp of approval upon a new government. Americans may invest in Russia to-day if they care to do so. Many Americans have already done this. Our friends of the opposition have declared that Sinclair lost his concessions because the United States had not recognized Russia. The Soviet officials, however, say that Sinclair did not fulfill the terms of his contract. The American government has no reason to repose faith in the Soviet government and because of this fact it cannot guarantee American investments in Russia by means of recognition or otherwise. In regard to trade the figures of the United States government and also of the Russian Information Bureau at Washington, D. C., the official trade department of the Soviet government, show that trade between Russia and the United States has remained practically constant

from 1910 until 1926. Evidently trade is entirely independent of recognition.

One point which the affirmative has advanced remains to be refuted. Our friends have declared that the United States owed Russia counter claims because of invasion of Russian territory. Col. William N. Haskell, director of the A. R. A., says, "I do not consider Russian counter claims of any importance,—they are mere talking-points." Alfred Dennis, in his book, "The Foreign Policies of Soviet Russia," says: "Such temporary occupations as were made by the United States in Russia were directly or indirectly against the central powers and were purely war measures." In view of these statements, we of the negative believe that Soviet counter claims are groundless.

Now let us briefly sum up the debate of this evening. The first point of the affirmative has been that the Soviet government has fulfilled the prerequisites of recognition. To prove this they have quoted the promises of the Soviet government, while we of the negative have brought forward the actual effects of recognition by other nations, and have shown that Russia has not fulfilled the conditions of recognition in that she has confiscated property, repudiated debts, and propagandized other nations with the idea of overthrowing their governmental institutions.

The opposition has also declared that we should recognize the Soviet government in order to settle difficulties and also to gain investments in Russia. Now we of the negative have proved by actual citation of the effects of recognition by other nations that recognition

of the Soviet government will not bring about settlement of difficulties. Moreover, we have shown that the investment argument of the affirmative is fallacious as it does not take into consideration the true meaning of recognition.

We of the negative have based our case upon these two major contentions, (1) The Soviet government has not fulfilled the conditions of recognition, and, (2) Recognition would not bring about settlement of difficulties. We believe that we have established these points and for these reasons we believe that the United States should not recognize the present government of Russia.

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RESTRICTION OF THE POWER OF  
THE SUPREME COURT TO DE-  
CLARE LAWS UNCONSTITU-  
TIONAL





# RESTRICTION OF THE POWER OF THE SUPREME COURT TO DE- CLARE LAWS UNCONSTITU- TIONAL

## *UNIVERSITY OF REDLANDS vs. WILLAMETTE UNIVERSITY*

The following debate was held at Redlands, California, on the evening of March 25, 1925 on the proposition: Resolved, that Congress should be empowered by a two-thirds vote to re-enact laws declared unconstitutional by the Supreme Court.

The Redlands speakers engaged in nine other debates on this subject, eight during the 1923-24 debate season and one, in addition to the Willamette debate, in the 1924-25 season. The statement of the question in all contests except the one with Willamette, was that used in the Debate Conference of Southern California colleges: Resolved, that Congress should have the power to nullify decisions of the Supreme Court by re-enacting legislation declared unconstitutional.

Redlands won all but two of the decisions. In several of these debates the Expert Judge system was used, and more than once lawyers and ex-judges were the arbiters and stated that they gave the decision to the Affirmative for the merit of the debating against their own beliefs and position on the merits of the question. A list of the debates of the Redlands team follows, and, although a list of the Willamette debates is not available, it should be stated that the subject was used on an interstate tour in which the Willamette speakers lost only to one other college beside Redlands, and won several more debates than they lost.

LIST OF DEBATES IN WHICH THE UNIVERSITY OF  
REDLANDS AFFIRMATIVE OF THE SUPREME  
COURT QUESTION WAS USED

1. La Verne College vs. Redlands at La Verne. Dwayne Orton, Russell Andrus for Redlands. Redlands won, 3-0.
2. Redlands vs. Pomona College at Redlands. Dwayne Orton, Russell Andrus for Redlands. Redlands won, 3-0.
3. Redlands vs. Occidental College at Redlands. Dwayne Orton, Russell Andrus for Redlands. Redlands won 1-0.
4. University of Southern California vs. Redlands at Los Angeles. Dwayne Orton, Russell Andrus for Redlands. Redlands lost 1-0.
5. Redlands Affirmative vs. Redlands Negative at Redlands. Dwayne Orton, Russell Andrus, Affirmative; Roger Walch, James W. Brougher, Negative. Affirmative won 3-0.
6. University of Nevada vs. Redlands at Reno, Nevada. Dwayne Orton, Russell Andrus for Redlands. Redlands won 2-1.
7. Brigham Young University vs. Redlands at Provo, Utah. Dwayne Orton, Russell Andrus for Redlands. Redlands lost 2-1.
8. Redlands vs. Willamette University at Redlands. Dwayne Orton, Russell Andrus for Redlands. Redlands won 1-0.
9. Redlands vs. University of Arizona at Redlands. Dwayne Orton, Russell Andrus for Redlands. Redlands won 3-0.
10. University of Southern California vs. Redlands at Los Angeles. Dwayne Orton, Russell Andrus for Redlands. Open Forum debate no decision.

First Affirmative, Dwayne Orton  
University of Redlands

The question for discussion is: "Resolved that Congress should have the power to nullify decisions of the Supreme Court by re-enacting legislation declared unconstitutional." Now, what does this question mean? Obviously, it proposes a change in governmental process. It gives to Congress and the President the power to

decide upon which of two possible interpretations of the Constitution they will base the public policies. In other words, it gives them a check upon the power now exercised by the Supreme Court, which heretofore has been sovereign and final. Our plan does not take from the Supreme Court the function of declaring laws unconstitutional. It merely takes from them final sovereignty, which, according to our Constitution, abides in the people.

The people have no adequate check upon the Supreme Court such as they have on Congress. Our plan, then, places the final disposition of public policy within reach of the people. In other words, this plan is a movement towards greater democracy.

Is such a change wise and expedient? Is there a necessity for it? Is the proposition practicable? The affirmative maintains that the satisfactory demonstration of these major considerations fulfills its burden of proof. It is my purpose to consider the expediency and the necessity of this change; my colleague will deal with its practicability.

Realizing that this question is new to most of my audience, and that the presumption is in favor of the established process, allow me to urge that you lay aside all prejudice, weigh the merits of the case as it is presented, and make your decision upon facts and not upon presumptions.

In order to ascertain the expediency and necessity of a change in our methods of government, it is logical to inquire first as to whether the determination of public policy is a legislative or a judicial function. The Con-

stitution established Congress as the policy-making branch of government, the President as the executive branch, and the Supreme Court as the interpreters of law and equity. The President shares in policy-making as he has the veto. The framers of the Constitution, however, denied to the Supreme Court participation in the policy determining function of government. It should be understood in the beginning that the Constitution does not give the Supreme Court power to declare laws unconstitutional. Political Science authorities are agreed upon this, and most of them admit that the Constitution does not even imply this power. However, since this power is not expressly forbidden in the Constitution, the Supreme Court with the acquiescence of the other branches of government assumed it, because there seemed to be a necessity of deciding between the powers of state and nation, and of harmonizing the state and national law with the Constitution.

The exercise of this power by the Supreme Court has been opposed by political authorities from Thomas Jefferson down. Whether or not the Supreme Court usurped its power over legislation, the fact remains that it exercises such power. Our proposition accepts this position of the court, and proposes to place a check upon it. Our contention to-night is that such a check is necessary because the Supreme Court, by assuming the function of nullifying legislation, not given it in the Constitution, gained a power over national policy not originally intended. The duty of the Supreme Court is to interpret and determine the meaning of law, and not to determine governmental policies; hence, the people

were given no check over the Supreme Court as they were over Congress and the President. When the court assumed the power to nullify law, it became necessary automatically to restrain this power if we were to maintain the system of checks and balances upon which our government is based.

As no restraint has been placed upon the court, the prerogative of the people to be the final voice in determining most of the important national policies passed into the hands of the Supreme Court. The issue of this debate is whether the people, who are sovereign, shall or shall not, acting through Congress, exercise a check upon the Supreme Court. As Senator LaFollette puts it: "The question is, which is supreme, the will of the people or the will of a few men who have been appointed to life positions on the federal bench?"

Abraham Lincoln recognized this situation clearly, when he said in his *First Inaugural Address*: "If a policy of government, on vital questions, affecting the whole people, is to be irrevocably fixed by the Supreme Court, the people will have ceased to be their own rulers, having to that extent resigned their government into the hands of that eminent tribunal."

Now, since the Constitution makes Congress the legislative or policy determining branch, and the Supreme Court the interpreter of law, and remains silent as to who shall judge the constitutionality of law, the question naturally arises: how far may the judicial right of interpretation infringe upon the legislative function of Congress?

It is significant that the United States is the only

country in the world that allows its judiciary to declare laws unconstitutional. All other nations regard policy determining power as a legislative function and admit of no abridgment. This is true whether they have a written or unwritten constitution and whether they are national or federal in form. Furthermore, our Constitution does not indicate in any provision that Congress should not be the judge of its own acts. In addition the doctrine of judicial review, which the Constitution fails to include, was practically an unknown doctrine at the time that the Constitution was written, having been asserted only in a few isolated instances. It was sixteen years after our government was founded before the Supreme Court asserted its claim to pass on constitutionality of legislation. And it was not until the Dred Scott Decision, just preceding the Civil War, that it made its assertion potent. So we see that the doctrine of Judicial Veto is an after-thought and that the framers of the Constitution trusted Congress to uphold the fundamental law.

Now just what is the court's function with reference to constitutionality? The court according to Justice Sutherland and many other eminent authorities has laid down the rule that no law should be declared unconstitutional as long as a reasonable doubt exists. Now what constitutes a reasonable doubt? When Congress and the President have passed a law and the Supreme Court holds it invalid by a split decision, does this not constitute a reasonable doubt? If a law directly violates a clause in the Constitution certainly there could be no doubt and the judges could act unanimously. But very

few laws ever do this; in fact none. The court declares laws unconstitutional because they are in conflict with interpretations placed upon the Constitution by the judges through a long series of decisions. Often the judges themselves reverse their decisions and change their opinions as to what the meaning of the Constitution is. We need only refer to the more spectacular instances such as the legal tender cases, the income tax, employers liability, and minimum wage decisions.

When there are two opposing interpretations of the Constitution, it is clear that they cannot both be right. The majority decision can as easily be wrong as the minority decision. Otherwise the court could not reverse its decisions with impunity as it has frequently done. It is as easy for the Supreme Court to make an unconstitutional decision as it is for Congress to pass an unconstitutional law. The only difference is that there is no adequate check on the court and there is one on Congress. All that we are asking for this evening is that Congress have the right to choose between two possible interpretations of the Constitution. It must be clearly understood that under our plan Congress does not set aside the Constitution but merely nullifies one of two possible interpretations of the Constitution. If one of these decisions invalidates the expressed will of the people, clearly, Congress, the policy determining body, has the right to act upon the interpretation of the Constitution which enables them best to serve the public welfare.

Theodore Roosevelt tells us, "That the power to interpret is the power to establish, and if the people are

not allowed finally to interpret the fundamental law, ours is not a popular government."

We maintain that it is expedient and necessary that Congress have this right because of the unfortunate results of this assumed power of the court to exercise the legislative function of determining national public policy.

These results are: the seizure of final sovereignty by the court, the amendment of the Constitution by interpretation, and the protection of private property and vested interests as against human right and social welfare.

First, let us consider sovereignty. The court because it is unchecked does not hesitate to nullify the will of one hundred and ten millions of people. It has become so assured of its authority that it no longer confines itself to matters of conflict in law. It dares to nullify legislation simply because a majority of the judges do not believe in the legislative policies of Congress.

Chief Justice Taft, Justice Sanford and Justice Holmes concurring, says in criticising the majority opinion in the recent minimum wage case, "It is not the function of this court to hold Congressional acts invalid simply because they are passed to carry out economic views which the court believes to be unwise and unsound." That the court insists upon deciding upon the desirability of law Justice Taft clearly points out, yet, the Constitution grants this right to Congress.

According to Frederic R. Coudert, an attorney of New York City, whom Senator Beveridge says is a determined conservative, "Few if any industrial reform



measures need have been construed as contrary to the Constitution."

Evidently the court has exceeded its constitutional limitations, has encroached upon the duties of Congress and the sovereignty of the people and rendered necessary a check upon its actions.

Now let us take up our second consideration. The Supreme Court has amended the Constitution.

Woodrow Wilson says, "At the hands of the court, the Constitution has received an adaptation and an elaboration which would fill its framers of the simple days of 1787 with nothing less than amazement. . . . Each generation looks to the Supreme Court to supply the interpretation which will meet the needs of the day. It is a process necessary but full of peril. The process has seemed at times a little too facile. The courts have seemed upon occasion to seek in law what they wished to find rather than what frank and legitimate inference would yield."

Long ago Thomas Jefferson said, "The Constitution is a mere thing of wax in the hands of the judiciary which they may twist and shape into any form they please."

Truly Theodore Roosevelt was right when he said, "the power to interpret was the power to establish."

The Constitution is what the court makes it, not what the people wrote into the document. We do not wish to convey the idea that judicial interpretation is an unmitigated evil. Obviously a government like ours living under a Constitution written one-hundred and thirty-five years ago must have adequate methods of

keeping the fundamental law in harmony with the changing conditions of the country. Our process of amendment is so hopelessly inefficient and inadequate that we have been obliged to depend upon judicial interpretation to expand the Constitution. The only difficulty is this: The expansion of the Constitution to meet our needs is dependent upon the will power and the prejudices of the judges. It is against all of the canons of democracy that such tremendous power, without adequate check, should be left in the hands of nine men no matter who they are, or how noble their characters!

The third consideration is, the record that the court has made in protecting vested interests as against human rights. The tendency of the whole interpretation of the Constitution which the court has built up is to protect the rights of property and vested interests. For instance the fourteenth amendment, passed to protect the negro, is now used by the court as a bulwark of special privilege.

Professor Corwin of Princeton University says, "Due process of law is not a legal concept at all, but merely a roving commission to judges, to sink whatever legislative craft may appear to them, from the standpoint of vested interests, to be a piratical tendency."

Let us illustrate the trait of which Professor Corwin speaks by referring to the Income Tax Case. For several years the Supreme Court held such a law constitutional. However, when the people desired to establish an Income Tax Law, which, as Sylvester Pennoyer in the *American Law Review* says, "Was the

most just law ever placed upon the statute books," the Supreme Court reversed its former decision and by a five to four vote nullified the law. And Chief Justice Walter Clark of the North Carolina Supreme Court says: "This judicial somersault required twenty years to remedy by constitutional amendment and in the interim transferred three billions of dollars from the over-rich, upon whom the law making body had placed a fair share of the burdens of government, and by judicial enactment transferred it to the laborers and farmers of the country."

In justifying the majority opinion Chief-Justice Fuller said, "The present assault upon capital is but beginning. It will be but the stepping stone to others, larger and more sweeping, till our political contests will become a war of the poor against the rich; a war of constantly growing intensity and bitterness."

In the dissenting opinion Justice Harlan said, "I can not assent to an interpretation of the Constitution that impairs and cripples the just powers of the national government in the essential matter of taxation, and at the same time discriminates against the greater part of the people of our country."

The same attitude towards property as superior to human right was handed down in the Dred Scott Decision which took the entire Civil War to reverse. Also in the decisions on Employers Liability, the Ten Hour Day Laws, the Minimum Wage, and the Child Labor Cases, the Supreme Court has invited the American Federation of Labor to condemn it as the stronghold of special privilege. If as Mr. Coudert says, "These

laws need not have been construed as contrary to the Constitution," we are face to face with the necessity of curbing the power of the Supreme Court. Let us sum up the matter in the words of Theodore Roosevelt, "When a judge decides a constitutional question, when he decides what the people can or cannot do, the people should have the right to recall that decision if they think it wrong."

We submit that the proposition we support does just this thing; it gives to the people the right to check decisions which they consider to be wrong and contrary to the public welfare. It gives them the right to take the interpretation of the Constitution which meets the needs of progressive legislation. It gives them a method of expanding the Constitution which they can control. The Constitution was made for the people, not the people for the Constitution. Let the people rule.

Second Affirmative, J. Russell Andrus  
University of Redlands

MR. CHAIRMAN AND FRIENDS: In order to put the minds of our worthy opponents at ease immediately, let me say that the kind of re-enactment which we propose is by a two-thirds vote of each house, plus approval by the president, or the same process by which an amendment is submitted, in addition to the president's approval, as has been assumed by the first negative speaker.

The gentleman wishes me to answer two questions; first, as to whether we wish Congress to re-enact legis-

lation which is clearly unconstitutional, and secondly, as to whether or not a law is clearly unconstitutional when nine judges declare it to be so. We would like to ask them how many of the important questions, cited by either side in the debate this evening, were decided by unanimous decisions. We can recall none, but possibly the gentlemen can enlighten us on this point. I shall explain this matter more fully later in my speech, but allow me to point out now that the Constitution is not always a yardstick, by which we may say with assurance that a law is, or is not, constitutional. That is why the judges so often disagree. In practically every case which comes before the Supreme Court, we find split decisions. We would merely give Congress the power to choose between two possible interpretations of the Constitution, and Congress would practically always be agreeing with from one to four of the judges, in so doing.

My colleague has shown that it is expedient and necessary that Congress be given policy-determining power. Now, the fundamental law is the Constitution, but it was made 138 years ago, and, as the first negative speaker has pointed out, it has had to be expanded to meet present-day conditions. There are three methods of expanding the Constitution, two of which have been mentioned by the opposition: amendment, judicial expansion, and legislative expansion. They favor the process of amendment. First, however, let me explain what we mean by judicial expansion.

Judicial expansion is that process by which the judges give new meanings to the Constitution: For

instance, the process by which the term "post roads" in the Constitution was expanded to include railroads and telegraphs, since the latter had not been invented when the Constitution was formed. The affirmative is not altogether opposed to this method of keeping the Constitution up to date. However, we maintain that it is a policy-determining, and not a judicial power, and, therefore, it should ultimately be vested in the policy-determining body, Congress. This judicial method has been used time and again, however, to bring our Constitution up to present conditions.

Now let me take up the first method of expanding the Constitution: amendment. This method is favored by the friends of the opposition. It is my duty to show that the third method, legislative expansion, is practicable. However, since the gentlemen advance amendment as a practicable plan, I must do two things, instead of one, as I had planned: I must compare amendment and legislative expansion of the Constitution, and show that the latter is more practicable than amendment. Now don't misunderstand us, we are not entirely opposed to the amendment process. However, we maintain that it is not sufficient.

First, it is too slow and unwieldly, and unable to be used frequently enough. As Macy and Gannaway say in their important book on *"Comparative Free Government"*: "The fact is that the majorities required for the proposal and ratification of amendments are so large that formal constitutional re-adjustments become pretty nearly impossible."

Again, the amendment process is too easily defeated.

As Macy and Gannaway say, in another section of their popular book: "As far as amending the Constitution is concerned, the claim of majority rule in the United States is simply farcical. An exceedingly small minority can block the way to constitutional changes. It has been computed that according to the census of 1900 one forty-fourth of the population, distributed so as to constitute a majority in the twelve smallest states, could defeat any proposed amendment.

In normal peace times the amendment process has worked but four times, since the original eleven amendments, and but once has it been used to repeal a judicial veto. That was in the case of the Income Tax. And even here we find that judicial interpretation partially nullified the act at once, by ruling out tax-exempt bonds and stock dividends, as the framers of the law, at least, did not intend should be done.

Furthermore, the use of the amendment process puts too much legislation into the Constitution. In the place of the fundamental law, the judges are given more clauses to misinterpret. It tends to make our federal Constitution like the Constitution of California—nothing but statute laws. For instance, in the California Constitution we find provisions for carrying on the World's Fair at San Francisco, long after the event has taken place. We find that certain sections of the fifth and fourteenth amendments of the national Constitution are used at the present time to defeat progressive legislation.

I have attempted to show you why the amendment process is not completely practicable, even though we

would continue to use it occasionally. The fact of the matter is that it has not been used, and that our Constitution has been kept up to date rather by the process of judicial expansion, in the vast majority of cases.

Now let me take up legislative expansion of the Constitution, as proposed by the affirmative, and demonstrate why it is practicable. Let us take a hypothetical case and follow it through. A law is passed (the Child Labor law, for instance) is approved by the President and goes into operation. A Georgia mill-owner refuses to abide by the law. He is brought into court, tried, and the case decided against him. He appeals his case from court to court until it finally reaches the docket of the Supreme Court, which eminent tribunal comes to it, considers the case, upholds the mill-owner, and thus virtually declares the law unconstitutional. Congress may or may not be in session. If it is not in session, the matter must wait until it meets, and until the bill is re-introduced, waits its turn, is referred to committee, and finally comes up for a vote.

I have gone into the description in order to show the folly of assuming that this plan would let down the bars to oceans of hasty legislation. Allow me to point out that in the vast majority of cases it would take at least two years for the law to go through all this process. Therefore, an election period would have come round, and it would be an entirely new House of Representatives, and at least one-third of a new Senate, which considered re-enacting the law. In the meantime, the people would have had a chance to rebuke their representatives, if they were not in favor of the pro-



posed piece of legislation. Hasty legislation must avoid three pitfalls: first, the gathering force of the opposition, which would have an opportunity to present its case to the people, and persuade them to send back representatives who were opposed to the law; second, a possible veto of the President, on the second passage, which would bring all the force of presidential opposition to bear on Congress; and third, a possible change of mind on the part of the Congressmen themselves, who would have had ample opportunity to think the matter over, and cool off, if they passed the law hastily.

Now, let me take this proposition, and apply it to our present system of government, and see how it would work.

The first speaker of the negative didn't quite make it clear what his colleague was going to talk about. However, from a hint or two, I should judge that he is going to try to show us that our present system of government would be destroyed. At least, I will hazard a guess that that is going to be his subject. If so, I shall try to show in advance that this plan would not menace our present American institutions.

First, let us take the Constitution. The only change is that a different body would have the final authority in keeping that document up to date. It is not interpreted now as it was in 1787, because we have used the method of judicial expansion of the document. We would use, in addition to this method, that of legislative expansion, whereby Congress, in response to the twice-expressed will of the people, assumes final authority in keeping our Constitution up to date. When a law

is passed over the Supreme Court's veto, Congress virtually says: "All right, we realize that there is some doubt about the constitutionality of this law, but nevertheless the people want it, so we'll make it constitutional." They pass it, and thus set aside the matter of constitutionality in regard to this *one law*. However, the section under which it was declared unconstitutional stands, with regard to all other laws. Thus, the Constitution stands unchanged, with regard to our bill of rights, and all the rest. In this way do we more fully answer the gentleman's question about the re-enactment of laws which are unconstitutional.

By this method the Constitution is deprived of the rigidity which prevents necessary legislation. The Constitution was made for the people, and not the people for the Constitution.

Next, it is possible that the second speaker for the negative may attempt to show us that the Supreme Court will be done away with. If so, we wish to take issue with him on this point, and ask him this question: "Will not the Supreme Court be able to act as conscientiously as ever, in declaring laws unconstitutional?" In fact, we of the affirmative would make this a definite right, rather than a usurped power which has never been seriously challenged.

However, the Supreme Court naturally attracts a great deal of odium, when it is forced to defeat the will of the people, even though it is clear that it is living up to the letter of the law. We would take this responsibility from the Supreme Court, and turn it over to Congress, the body which is meant to have final

policy-determining power. This would give the Supreme Court *added* respect, for it would point out as clearly as ever where our Constitution needs expanding. It would cause Congress, the President, and the people to stop and seriously consider the matter for some time, before they expanded the Constitution. Therefore, we see that neither the Supreme Court nor the Constitution would be seriously hampered by the operation of the affirmative plan. We would merely make both more responsible to the will of the people.

Possibly the next speaker will argue that we would destroy states' rights. Although this is not a very important issue, we might point out that the Supreme Court may at present declare any act of a state legislature invalid, and here we find the greatest menace to states' rights. The deliberation over an act, over a period of two years or more, gives the believers in states' rights a splendid opportunity to present their case to the people, and persuade them that this particular power had best be left to the states. However, we would make it impossible for a few states to prey upon the rest, merely by resisting social progress.

In case the gentleman says that this would destroy the President's power, we would point out that the President's veto is even more important than at present, because he would have a chance to use it twice, instead of once. He would still have all his appointive and executive powers, and would remain in practically the same position as now.

The passion of the American people is for greater democracy. This plan gives greater democracy, and

at the same time, it restrains momentary whims, and gives expression to the permanent will of the people on big questions.

The people have a check on their congressmen, senators, and the President, through their right to re-elect, or refusal to re-elect them, every two, four, or six years. The House checks the Senate, the Senate checks the House, both check the President, by being able to pass bills over his veto, confirm appointments, make appropriations, etc. The President checks Congress by means of his veto and appointive and executive powers. At present, the only check upon the Supreme Court is waiting for the judges to die, or waiting for the round-about process of amendment. We have shown that a check upon the Supreme Court is necessary, and that is what the affirmative plan provides. Under this plan every single department of our government would act as a check to every other department, but, standing as the keystone of the arch, is the power of the people, as the deciding influence, to act as a check and a guide to anything, and everything!

To sum up the affirmative case: we have shown that a check upon the Supreme Court is expedient and necessary, because that body is at present the judge of all the powers of government, including its own. We have shown that it is practicable, and that the fears of the negative that it would destroy our present system of government are unfounded. In the name of greater democracy, we demand that the people be given the check upon the Supreme Court of the United States. Let the people rule!

First Affirmative Rebuttal, Dwayne Orton  
University of Redlands

We have now come to the place in this debate where both constructive cases are in. The negative has placed before you many serious charges against the proposal of the evening. These charges have been made with fluency and care. Yet, we would not allow you to be swayed with smoothness of speech. We demand that any thoughtful decision on this issue must be based upon facts and not on the supposition that our government may be wrecked, not upon the supposition that the system of checks and balances might be destroyed, and not upon the supposition that this country might be overrun by a tyrannical Congress bent upon destroying personal liberties. What are the facts in the case?

The issue as brought out in the opening speech was, who shall determine public policy, the Supreme Court or Congress? We maintain that the Supreme Court has entered the field of policy determination, that it virtually legislates. The negative declares that it is only a judicial body and therefore only interprets law. There's the rub, it only interprets law, but in so doing it warps and twists legislation into new forms. Ogg and Ray in their book *"Introduction to American Government"* state on page 509, "As we have seen, under the influence mainly of Chief Justice Marshall, the federal courts, and especially the Supreme Court, have applied such liberal canons of interpretation as to result in a 'judicial expansion' of the Constitution where-

by its various provisions, adopted and understood in the light of the eighteenth century conditions, have been stretched and adapted to meet the vastly different and wholly unforeseen conditions of the twentieth century without the necessity of numerous formal amendments." Raymond L. Buell, eminent governmental expert, states that: "It is not an exaggerated statement to say that the Supreme Court of the United States is a third chamber in every state legislature in the country." Now let us examine a concrete case. Justice Harlan, of the Supreme Court, in dissenting in case, No. 221 U. S. 106, *The United States vs. The American Tobacco Company*, a case under the Sherman Anti-trust Act, says: "But now the court, in accordance with what it denominates the 'rule of reason' in effect inserts in the act the word 'undue' which makes Congress say what it did not say, what, as I think, it plainly did not intend to say, and what, since the passage of the act, it has explicitly refused to say. . . . In short, the court now, by judicial legislation, in effect amends an act of Congress."

It is because the Supreme Court has infringed upon the legislative prerogative of Congress that it becomes necessary to give Congress power to re-enact legislation declared unconstitutional by the Court.

An analysis of the negative case discloses two cardinal contentions. These are: first, that the system of checks and balances upon which our government is founded, will be destroyed; and second, that Congress could not be trusted to have such power as our proposi-

tion confers because it would override individual rights and liberties.

Now let us consider first the question of checks and balances. The framers of the Constitution established three branches of government and limited the power of each. In order to prevent encroachment of one on the other they evolved the American system of checks and balances. A check was given to the House of Representatives on the Senate, the Senate on the House of Representatives, the people on Congress, the President on Congress, and Congress on the President. The only inefficient check of the system is the lone power of impeachment of Supreme Court Justices. It was deemed to be the function of the court to determine the meaning of law, hence no definite check was placed there. But when the court assumed the function of nullifying legislation a check became necessary to maintain the system of checks and balances. This completion of the system is what we advocate this evening. Our proposition will not destroy a single check, it merely extends the system to meet the conditions in our government at the present time. It is no more opposed to our tri-party form of government than is the presidential veto. We leave you to judge as to who has analyzed this situation correctly.

In support of the contention that the adoption of the affirmative proposal would be a real danger to the people and the Constitution, the negative has painted a black picture of what Congress would do if it had this proposed power. Their argument is based upon sup-

position. Let us see what Congress has done in the past.

In Article 3, Section 2, Paragraph 2, of the Constitution we read as follows: "In all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have Appellate Jurisdiction, both as to Law and Fact, *with such exceptions, and under such Regulations as Congress shall make.*" Let me repeat, "with such exceptions, and under such regulations as Congress shall make." What does this mean? By this power Congress could prevent any case from getting to the Supreme Court by removing it from appellate jurisdiction. It can remove from all lesser courts the right to declare a law unconstitutional. It could pass unconstitutional laws and keep them from the courts. Congress could TYRANIZE THE COUNTRY. But does Congress do it? No. This power is vastly greater than that which we propose, yet Congress has not abused this power. Only once has it been exercised. In *Ex-parte McCardle* a case was thrown out of appellate jurisdiction as a matter of reconstruction expediency. The Supreme Court recognized the situation and held the condition valid. The record of Congress shows restraint in the use of this tremendous power. The record justifies our placing trust in that group which we elect to represent us, that group which we control, that group which represents the will of the people. Congress *can* be trusted to protect the rights of the people of the United States!



But what of the record of the court? In 1915 Kansas passed a law that made it a crime for an employer to discharge an employee because of membership in a labor union. In *Coppage vs. Kansas* (236 U. S. 1) the Supreme Court declared this law unconstitutional. What became of the Bill of Rights for the workingman in this case? In the cases, *Hawaii vs. Mankichi*, *Downer vs. Bidwell*, *Door vs. United States*, *Rasmussen vs. United States*, and *Porto Rico vs. Tapia* the Supreme Court handed down decisions destroying the individual's right of trial by jury in the dependencies and territories of the United States. This shows the Supreme Court's lack of respect for the rights of individuals. It is on this kind of a record that you are asked by the negative to place your trust. Let us keep the function of policy determination in the legislative body where it belongs. Let us preserve our system of checks and balances. Let us place our trust in that body which we can control, Congress.

Second Affirmative Rebuttal, J. Russell Andrus  
University of Redlands

MR. CHAIRMAN, LADIES AND GENTLEMEN: I'll have to try once more to clear up this matter of the difference between judicial *interpretation* of the Constitution, and judicial *expansion* of the Constitution, for our worthy opponents don't seem to be able to understand what we mean.

Now judicial interpretation is the same process used in other countries: whereby the judiciary lays down

the law beside the Constitution, and tries to find out whether or not it agrees. Where a yardstick will suffice—where it is a plain matter of fact—where it can be demonstrated with the accuracy of a mathematical problem—*then* we have judicial interpretation of the Constitution. However, this isn't what we're arguing about this evening. When it comes to expanding the Constitution, to putting new meanings into the Constitution, to determining matters of expediency and policy—*that* is judicial expansion. I gave you an instance of that before—in the case where the Supreme Court interpreted "post roads" to include railroads and telegraphs, even though such was not the intention of the framers of the Constitution. I hope I have made this point clear for the gentlemen.

The friends of the opposition wish to be enlightened as to how the Supreme Court can legislate. I have just shown you one way. Here is another: by adding a word to a law, by means of judicial interpretation and expansion. For instance, the Sherman anti-trust law contains the phrase "In restraint of trade." The court interpreted this to mean "undue restraint of trade," and greatly limited the meaning of the law, from what its framers originally intended.

The second speaker of the negative says that our plan would have procured only "five bits of legislation," in the one hundred and thirty-eight years of our national life. Still the gentlemen say, rather inconsistently, that this would be "a radical change." They assume that the only laws which would have been re-

enacted are those which were presented as amendments and failed. We deny this proposition! Congress might have been dissuaded by, first, a fear that the laws would not be ratified by the necessary majority of the states, or second, by a fear that amendment would put too much legislation into the Constitution, and give the judges that much more to misinterpret. The case is similar, rather, to the case of passing a law over the President's veto, and this method has been used fairly frequently, although it has also failed in many cases.

The first speaker spends much time worrying about nine to nothing decisions. Still he doesn't answer our question as to how many such decisions there have been. In fact he's about as talkative as the Sphinx on this point.

The first speaker of the negative also asks us why we should not limit our process to split decisions. However, he does not advance this as a counterplan, so we cannot afford to waste our valuable time discussing it, even though we are able to find several faults in it.

The gentlemen bring up a number of cases against Congress, including the Monongahela case, the Garland, Civil Rights, Fairbanks, and other cases. They have not proved, however, that Congress would re-enact these laws, after it had been back to the people for a fresh mandate. Neither have they proved that the people would not have been better off, in some of these cases at least, had the laws been re-enacted.

They say we are making Congress unchecked. Congress has all the checks mentioned by the second

speaker of the opposition. In addition, the *people* are the best possible check, in that they could prevent re-enactment of laws, at the intervening election.

"If Congress be given power to extend its limitations at will—" says the gentleman. But we have shown that it cannot, and that the process is sufficiently slow.

The gentlemen fear that we would make Congress the judge of its own powers. However, they ignore the following two salient points: first; the Supreme Court would be able to declare laws unconstitutional, just as at present, and second; it would be a different Congress which would do the re-enacting. The Supreme Court would judge the powers of Congress, just as at present. The Constitution would restrain Congress just as at present. The only difference is that it could not restrain Congress for more than two or three years, in case the people showed that they wished this particular law to be passed. When a law is passed over the Supreme Court's veto, Congress does so knowing that, in the opinion of a majority of the judges, the law is unconstitutional. However, it says that the arguments in favor of the law are sufficient, that it passes the bill anyway, and thus *makes* it constitutional.

"When you remove from the Court power to make its decisions effective—it becomes a debating society," says one of our opponents. We don't remove this power from the court, as I have already shown. They did not answer my argument in this regard.

They say that the court is sufficiently checked, giving the following four checks: first, impeachment, second, regulating the length of sessions, third, appointment

of judges, and fourth, removing laws from the Court's appellate jurisdiction. We have quoted Theodore Roosevelt for you, showing that the first method is not satisfactory. The second and fourth methods are not worthy of Congress. These powers are too dangerous to be used. They are more radical by far than the proposition of the affirmative. The third method—appointment of judges—is all right, but the judges live a long time.

The gentleman asks us if we can show any harm to California because of its long Constitution. Yes. For one thing it is such a jumbled-up mass that only the most clever constitutional lawyer can understand it. Take our national Constitution on the other hand, and, as I have already shown you, it is the "due process of law" clause, and others in the fifth and fourteenth amendments, which stand in the way of progressive legislation, even though the men who wrote these amendments had no such idea in mind at all.

They say that the amendment process is sufficient, and that the defeat of an amendment by one-fourth of the people is unlikely. Perhaps it is, but defeat by one-fourth of the people isn't so unlikely. They say that the failure of an amendment shows that the people don't want it, and that this is true in the Child Labor case. We maintain that it was the sudden opposition of the National Manufacturers' Association which served to defeat this amendment, rather than the will of the people. Now we shall probably have to wait twenty years, as in the case of the Income Tax, before we get an amendment.

Allow me to sum up the debate of the evening. First,

the affirmative case. We have shown that our Constitution must be expanded, and that there are three ways of expanding it: amendment, judicial expansion, and legislative expansion. We have shown that amendment has been used but few times, is too slow, unwieldy, and likely to lead to misinterpretation. In fact, it has been practically discarded for the method of judicial expansion. We have shown that *expanding* the Constitution is primarily a legislative function. We have shown that our plan is practical, and that it involves no danger to our institutions.

Let us now glance at the negative case. The second speaker of the opposition has been very diligent in digging up a large number of cases, and he must have worked hard, looking through some law books up in Oregon, and he has tried to show us that Congress is an unworthy body because of the passage of these laws. He has tried to dig up everything bad which he could find about Congress. However, he has not proved that Congress would re-enact these laws, after it had had two years to think it over, and to get back to the people for a verdict.

They have contended that it would destroy our present system of government. However, they have not answered our arguments to the contrary. Reduce their arguments to a syllogism, and you have as the major premise: "Anything which destroys our present system of government is bad"; they skip to the conclusion, which is: "Therefore this plan is bad." Where is the minor premise? They have not proved the point that our plan would destroy our present system of govern-

ment, but have skipped this necessary step entirely.

Finally, they have attempted to show that judges are better fitted than Congressmen. Perhaps they are for judicial interpretation of the Constitution, but when it comes to expansion of the Constitution, to determination of policy and expediency, *that* is a legislative function, and should be exercised by Congress.

As to the make-up of Congress, we would remind the gentleman that, a few years ago at least, over seventy per cent. of the members of both houses were lawyers, so you have lawyers both in Congress and in the Supreme Court, and there is no particular difference here. The gentlemen of the negative have not met us on the main issue, expansion of the Constitution, and they have not challenged our position.

#### First Negative, Charles Redding Willamette University

We take great pleasure in acknowledging the welcome extended to us by your representatives. And may I take this opportunity to express our appreciation of the many courtesies that have been shown us since our arrival here in Redlands. We shall look forward to the time when University of Redlands speakers shall again be our guests, and it is our sincere hope that we shall be able to afford similar hospitalities. It is indeed a privilege to have the opportunity of discussing this question with your representatives, a privilege to have the opportunity of seeing your wonderful city, a privilege to have the opportunity of visiting this beautiful and advanced

state of yours, and above all a privilege to have the opportunity of being kissed—by California's golden sunshine.

Now it is customary in debate for the first speaker of the affirmative to analyze the question and to define such terms of the resolution as are not absolutely clear to all. We feel that it was an oversight that this has not been done. It is true that the resolution is relatively clear, but we are not sure what the affirmative mean by a two-thirds vote of Congress. Do they propose to extend to two-thirds of the entire membership of Congress the power to re-enact federal legislation declared unconstitutional by the Supreme Court; or would they grant this enormous power, this power of over-riding the opinion of the greatest of judiciaries, to but two-thirds of a bare quorum of Congress, which would require but two more than one-third of that body? And since we feel that it was an oversight on the part of the first speaker, the second speaker will without doubt make their stand clear on this phase of the resolution.

I should also like to ask the gentlemen of the affirmative if they propose to have Congress re-enact legislation which is clearly unconstitutional, or do they merely mean to have Congress exercise this power in cases of doubtful unconstitutionality. Since we are led to believe by the words of the proposition that they would give Congress power to re-enact *any* federal legislation declared unconstitutional by the Supreme Court, this question is pertinent, for upon it hinges to a large extent the course which the affirmative are to take in this debate. Since it is no more than fair that



we of the negative know early in the debate the affirmative's exact stand, we expect an answer from the next speaker. We would also ask the gentlemen of the affirmative if they consider a law clearly unconstitutional when the nine justices of the Supreme Court unanimously declare it so.

Now this particular restriction of the power of the Supreme Court is demanded by the affirmative because of certain evils which they allege exist in the present operation of our judiciary. We do not think such restriction is necessary, for we do not believe these evils are really as great as they attempt to make them—are not really sufficiently grave to demand any change in our present system. Perhaps that is the reason that their plan did not have the support of many people in the recent presidential election. We also maintain that their plan would not remove these evils if they did exist. And further we charge that to change our government as the affirmative propose to change it, would be to destroy the very foundations upon which that government rests, would be to strike a direct blow at the very corner-stone of our democracy—the Constitution.

The first speaker will consider the first two of these: First, that the evils which the affirmative allege exist are not really as great as the gentleman who just left the floor attempted to make them, are not really sufficiently grave to demand any change in our present system; and second, that the change which the affirmative are advocating would not remedy the situation even if these evils did exist and if they were as grave as the affirmative would have us believe.

Now the first speaker of the affirmative has charged that the Supreme Court justices allow things other than constitutionality to influence their opinions; in so many words he has insinuated that at times legislation is declared unconstitutional which does not really conflict with the Constitution, and in support of this accusation he has merely named six or eight cases. Friends of the opposition, I would remind you that in any debate the burden of proof rests upon the affirmative. Since you are bringing this accusation against the Supreme Court, it remains for you to show that you have grounds for so accusing the Court. Your naming these cases does not prove that the Court is wrong. Friends, in each one of these cases we have on the one hand a majority of the Supreme Court declaring that the legislation is clearly inconsistent with the Constitution, and on the other hand the first speaker of the affirmative offering his opinion to the effect that the Court is wrong. I trust that you see that such an accusation as the affirmative have brought against the Court requires much more support than the voicing of their own opinions.

Now friends, since the affirmative is making the accusation, they must show that it is true. It does not fall upon us to show that everything the affirmative see fit to mention is unsound. Nevertheless, for your satisfaction allow me to review the facts pertaining to one of the cases mentioned by the affirmative, that we might see in an unbiased light the Supreme Court's reason for declaring the legislation unconstitutional.

The first Child Labor case was mentioned, and I

believe is typical of the group of cases they mentioned. Now the Constitution states that those powers not delegated to Congress nor denied to the several states shall belong to the states or to the people respectively. In going a step further we find that the power to regulate Child Labor is not granted to Congress nor denied to the several states by the Constitution. Consequently this power belongs to the states or to the people respectively. And so in the case of the first Child Labor law we find Congress endeavoring to exercise power in a matter over which it had no jurisdiction. Obviously, the Court could do nothing but declare the law unconstitutional. As I stated before, this case is typical of the cases mentioned by the affirmative. Thus we see that the evils which the affirmative have alleged exist are not really as great as they have attempted to make them, are not really sufficiently grave to demand any change in our present governmental system.

Let us now spend a few moments in calculating just exactly what would be derived from the adoption of the plan of the affirmative, if these evils did exist and were as grave as the speaker who has just left the floor attempted to make them. Imagine for the time being that these evils do exist, bearing in mind we deny that they do. Now if Congress were to pass a certain piece of legislation which was needed and the Supreme Court were to declare it unconstitutional, not because it actually conflicted with the Constitution but rather because the justices were exercising a legislative power, and the people of the United States really wanted the legislation, Congress could procure it in two different

ways if the plan of the affirmative were in effect. It could be secured either by re-enactment, the plan of the affirmative which would require a two-thirds vote of Congress, or by constitutional amendment, the proposal of which requires a two-thirds vote of Congress. Now which of these two processes would Congress use if it had both of them at its disposal?

If it were to use the process of re-enactment, the plan of the affirmative, it would be uncertain as to whether it was acting in accord with public opinion; it would be uncertain as to whether the people really wanted the legislation. The people would not be able to express directly their convictions upon the desirability of the legislation. And in the second place Congress would realize that it was endeavoring to procure the legislation by a means which is not provided for in the Constitution, by a means which would be bound to be disapproved by a large percentage of the American people. Whereas, if Congress sought to procure the legislation by the process of constitutional amendment, the proposal of which would require the same vote as re-enactment, it would be sure that public opinion was behind it; for if the people did not want the legislation they could fail to ratify the amendment when it came before the states. And in the second place Congress would realize that it was endeavoring to procure the legislation by a means provided for in the Constitution, a means which beyond doubt would meet with the approval of the people. Thus we find that any Congress, dependent on the American people for election and responsible to them, would be likely to select that means

of procuring legislation which best meets with the approval of the American people—namely, the process of amendment. Now if Congress endeavored to procure a piece of legislation by proposing an amendment and the amendment were ratified, Congress would know that the people really wanted the legislation and would immediately enact the law. We would then have the law, everything which the plan of the affirmative could give us.

However, it is true that at times Congress proposes amendments which fail to be ratified and that in such a case the plan of re-enactment might procure for us legislation which could not be obtained by the process of constitutional amendment. But I would remind you that if the states fail to ratify an amendment then that legislation is not the desire of the American people. Thus the whole question resolves down to whether or not we wish to limit the power of our judiciary, as the affirmative propose the limitation with all its attendant evils, that we might be able to procure, in addition to the legislation which we now procure, only that legislation which is not clearly the desire of the American people.

The affirmative have argued that in the past the process of constitutional amendment has failed to secure certain needed and beneficial legislation. If such is the case it is because of one of two things: First, Congress failed to propose an amendment. In such a case the affirmative plan would not work, for if Congress fails to propose an amendment by a two-thirds vote surely it could not and would not re-enact by a two-thirds vote.

Or second, Congress might propose an amendment that failed to be ratified. In such a case the legislation is not really the desire of the American people. And thus as I stated before, the whole question amounts to whether or not we wish to restrict the power of our judiciary, with all the evils attendant thereon, that we might procure, in addition to the legislation which our present system affords us, only that legislation which is not clearly the desire of the American people.

Second Negative, Joel V. Berreman  
Willamette University

We of the negative have shown that there is really no need for the change in government which the affirmative have proposed. We admit that there has been at various times some need for laws which were not definitely mentioned in the Constitution. We agree with the gentlemen that there must be some means of expanding the Constitution. We believe that the framers of the Constitution realized this fact; and to make it elastic and to provide for circumstances which they realized would arise beyond their range of vision, they included in that immortal document the clause which gives the people, either through their representatives or in conventions, the right to amend the Constitution.

My colleague has pointed out that we can gain everything under the plan of amendment which could be obtained by re-enactment; and that if this process fails to secure the law, it must be because of one of two things: (1) Congress fails to submit an amendment to the

states, or (2) when an amendment is submitted, the people fail to ratify it. Now if no amendment were submitted there is no ground on which to assert that the law would have been re-enacted had the affirmative plan been in effect, for both amendment and re-enactment require the very same two-thirds vote of Congress. But if in the second place, the people fail to ratify an amendment, then plainly they do not desire the legislation. The only possible use then for the affirmative plan would be to obtain laws which the people have shown that they do not desire by their failure to ratify an amendment empowering Congress to pass such laws.

But it has been maintained that amendments may be defeated by a very small minority of the states or of the people. The affirmative have estimated that one forty-fourth of the people can deny us an amendment. Now we must demand that the affirmative show us that this is not only possible but that it is probable—that it will actually occur and so deny us a needed law. In fact, if amendment is to work out as the affirmative have predicted, it would be necessary that a very peculiar arrangement of people, politics, and opinions should be established. This is not only not likely, but has never occurred in our entire history. Clearly this danger is only theoretic, and constitutes no practical objection to the present system.

Now it may be maintained further that the process of amendment is slow and that re-enactment would secure laws more quickly. Let us see if in our history amendment has been so very slow. The average time

required for the ratification of the nineteen amendments we find to be one and one-half years. One has been secured in nine months and two others in eleven months each. Surely this little delay is not seriously a fault in the system. In fact we maintain that if Congress were to re-enact sooner than this, that body could not really know the people's will, and would therefore be in danger of re-enacting ill-considered and unwise legislation. And of course, if it waits really to ascertain the people's will, there will be no gain in speed over amendment.

Obviously, then, there is no real advantage in the affirmative plan, and there is the danger of sacrificing safety for speed and of obtaining laws the people really do not desire.

In answer to my colleague's question the gentlemen have maintained that they would have Congress re-enact only such laws as the Supreme Court has improperly declared unconstitutional. It can be seen that this gives Congress the power to review the Court's action and to correct such decisions as appear to Congress to be erroneous. Now it is evident that if Congress is to be empowered to correct the Court, it must first be shown that Congress is a fit body to do this—that is, that Congress knows more about the Court's business than the Court knows about its own business. We hold that this is not true.

The Supreme Court's work is purely judicial. It involves the interpretation of the law of Congress on the one hand and of the Constitution on the other, and the application of these two laws to an individual and particular case. It is plain that this is purely a judicial act,—



the interpretation and application of law,—and that in thus performing its duty the Court cannot be accused of attempting to legislate or to step outside of its rightful function.

Now since this is a judicial power, it is our contention that it is much more appropriate for it to be in the hands of the Court than in the hands of Congress. The Court is made up of legal experts. The members have had an average of twenty-five years' legal experience before their appointment to the bench. Congress, on the other hand, is made up of a miscellaneous group of legislators, representing almost every occupation. They are not necessarily legal experts, and their very fitness to legislate for the current need of the time renders them unfit as a judicial body, for it would be impossible for them to set other considerations entirely aside and consider constitutionality alone. It is plain that this, a judicial power, is better vested in a Court of expert jurists than in a miscellaneous Congress.

Not only would Congress be thus called upon to interpret law, but it would be called upon to judge the constitutionality of its own acts. It is clearly more than we should expect of any body of men that they be impartial judges of their own acts. Would you give one party to a civil suit the right to determine the validity of his own claims and fix the final verdict? Would you expect us to give an unbiased decision on this debate in which we participate? Shall we give Congress the power of a court to be the judge of its own acts and declare their constitutional status? If so, we disregard the most elementary of the rules of judicial procedure—

that rule that to be unbiased, a judicial decision must be rendered by a disinterested body of men.

It is our contention that Congress is unfit to correct the Court in judicial matters, and especially when that would involve the interpretation of its own acts. This is, in the final analysis, the real substance of the affirmative proposal.

It is further our contention that the plan of the affirmative strikes a direct blow at the very foundation of our governmental system, and that its adoption, therefore, is fraught with real danger to the republic.

As the affirmative have already intimated, the framers of our Constitution planned a new system of government. It was based upon an equal distribution of power among three departments—legislative, executive, judicial. Over this whole machinery of government they placed the Constitution to limit and delegate the powers of each department, to balance the powers of federal and state governments, and to protect the rights of the people. To make impossible a misuse or abuse of power on the part of any department, the system of checks and balances was arranged. Under it we have adequate checks upon all the departments of government.

Let us briefly review these checks. On the President we have three checks: popular re-election, impeachment by Congress, and the Congressional power to overrule an executive veto by a two-thirds vote. We have similar checks on Congress: Presidential veto, popular re-election, and the Court's power to declare unconstitutional such laws as are in clear violation of

our fundamental law. Now the gentlemen have maintained that the Court is unchecked, and yet Congress may impeach the members, regulate the time and length of its sessions, appoint new members and regulate the number of members, fix the salary of the justices, and even regulate the appellate jurisdiction of the Court itself. The only power the Court has is in cases which Congress allows it to consider; and when some individual appeals to it for protection, to voice its opinion in regard to the law and the facts. Besides this, its decisions may be reversed by constitutional amendment. Plainly, then, the Court is sufficiently checked, and with this system as it is there is no real danger of an abuse of power.

Yet the gentlemen of the affirmative on the grounds that the Court is unchecked would remove from it its only power—that of interpreting law, and would add power to Congress with its already extensive power of legislation. In so doing they are plainly proposing a plan which breaks down this system of checks and balances, for it is impossible to take power from one department and add to another without destroying the equilibrium of our balance powers.

Such a change would have three definite and unavoidable results: First, it would reduce the Supreme Court, which I have already shown is adequately checked, to the status of a mere debating society, an impotent advisory board, for Congress would no longer be under any obligation to abide by its decisions. Second, it would destroy the purpose and function of the Constitution. As I have shown, the purpose and nature of the Constitution makes it a limitation upon the de-

partments of government. But if unconstitutional laws may be made effective by legislative act, then Congress can extend its own limitations at will, and the Constitution becomes, as John Marshall says, "but a vain attempt on the part of the people to limit a power which would be by its own nature illimitable," for that limitation which can be extended at will is no limitation at all. The Constitution would then be useless as a limitation on the powers of government or as a protection of the people's rights. Third, the affirmative plan would in breaking down our system of checks and balances, give Congress both legislative and judicial power and leave it practically unchecked in our federal system, subject only to the people at election time. This we hold is entirely inadequate as a check upon its power. In addition to its power to overrule the President's veto, the affirmative would also give Congress power by the same vote to overrule a Supreme Court veto. This would make Congress supreme and what Jefferson called "a legislative despotism"; and he added, "This is not the government we fought for."

These three results are inherent in the affirmative plan. We cannot adopt this proposal without destroying the equilibrium of our system of checks and balances, and so destroying the power and effectiveness of the Supreme Court and the Constitution as to leave Congress supreme and unchecked.

In considering such a radical change it is well to remind ourselves that under the present system we have enjoyed the greatest territorial, industrial, social, and economic growth and development of any nation in

the world in the last one hundred years. Now while this may not be entirely due to our governmental system, yet we have only to look abroad to realize that those countries most backward in government are also most backward in social and economic development. Surely, if our system had been fraught with the great evils which the affirmative picture, this development would have been somewhat retarded.

Now besides these inherent results of the affirmative's plan, the very fact that under their system Congress would be inadequately checked would make a serious abuse of power possible, and it is our contention that the nature and past record of Congress make it also highly probable. Congress could under this plan infringe upon personal rights guaranteed us in the Constitution, as it attempted to do in several cases in the past. It could confiscate private property without just compensation, as in the case of the *Monongahela Navigation Company vs. United States*. Congress could pass bills of attainder and ex post facto laws, as the Court held it did in the case of *Ex Parte Garland*. It could deny the cherished right of trial by jury as the Court pointed out that it did in the case of *Wong Wing vs. United States*. Similarly it might be shown that Congress could break down the balance of power between federal and state governments and infringe upon the purely internal and domestic affairs of the states, as in the *Civil Rights Cases*; or infringe upon the power of the President, as in the case of *United States vs. Klein*; or misuse its power of taxation, as it did in the appropriation act of 1898 when a tax was levied on exported

goods. Since Congress has passed such laws in the past by substantial majorities, it is our contention that there is real danger that it might re-pass them in the future. Under the affirmative's plan there would be no power to protect us from these violations of our rights, as the Supreme Court did under our present system.

Especially do we object to granting Congress such an unlimited power when we realize that as a body it is seriously subject to political control, to the dictates of lobbies and party blocs, and to a myriad of obstructions which make it impossible for Congress to know the people's will or for the people to know the acts of their individual congressmen and fix on them definite responsibility. Let me quote Senator Stanley of Kentucky, who has served in both the House and Senate. This was delivered before the Senate in 1923.

Senator Stanley says: "The worst thing the Senate does, the worst thing Congress does, for the country and for humanity and for whichever party is responsible for its conduct is the passage of a multiplicity of half-baked, undigested measures—not measures that are demanded by a majority of the people, not measures that are responsive to the call of the intelligent mass of the people, but measures hatched often by sinister interests, or interests backed by organized propaganda posing as the voice of the people. Members of Congress pass bills, not because a majority approves or requires them, but because those who make the most noise and are the best organized demand them. There is no deliberative body on earth as poorly attended as this one. The Senate of the United States is the most deserted

legislative chamber on the face of the earth that deserves the name of a legislative chamber; and the reason why it is deserted is because we understand that more or less here it is stage play; that the work is done in committees; that we have ceased to weigh and consider or as Lord Bacon says 'to chew and digest' anything."

Now, if Congressmen hold such opinions as this concerning that body, and if its own past acts count for anything, we must conclude that Congress does not always express the voice of the people; and hence that it is highly unwise to vest in it such an extensive and unchecked power until the affirmative can give us a guarantee that it will be absolutely safe.

Since the advantages to be gained by the affirmative plan are so slight or do not exist at all, since the dangers inherent in the very basic theory of the plan and the chances of misuse of such an unlimited power are so great, we contend that it is inconsistent with the best interests of the American people that it be adopted.

**First Negative Rebuttal, Charles Redding  
Willamette University**

Our friends of the opposition have argued that the Supreme Court is exercising an unrestricted power, and is influencing legislation by the exercising of this power. Now friends, we realize how untrue such an accusation is when we stop to think that the Supreme Court exercises only a negative power. Gentlemen of the affirmative, we charge you to show that the Supreme

Court exercises a single positive power, a single power by which it could pass a piece of legislation. Friends, the Supreme Court does not formulate or pass laws, but rather passes upon the constitutionality of legislation passed by Congress; and at most it can but nullify or approve the law. And again, the Supreme Court has not even the power to pass upon legislation passed by Congress until the legislation is brought before it in an actual case. Thus we see how absurd it is to say that the Supreme Court is legislating by the exercising of an unrestricted power which it doesn't have.

Our friends of the affirmative have argued that the Constitution does not confer, and that its framers did not intend to have it confer upon the Supreme Court the power to declare legislation unconstitutional. We find that the Supreme Court by 1830 had declared void statutes of fourteen states, and even, in the case between the United States and Todd in 1793, declared void an act of Congress. Yet during all these beginning years of our judiciary the constitutionality of the Court's power to invalidate legislation was practically unquestioned. Now had the framers of the Constitution not intended to have the Supreme Court exercise this power, surely such of them as were still living in 1793, when the Court exercised this power in the case between the United States and Todd, would have uttered some word of criticism or protest. But we have no record of such protest from them. Neither do we have record of any of the framers ever protesting against the Supreme Court's nullification of state legislation. Thus, because of their silent consent, it is reasonable to con-



clude that the framers of the Constitution intended to have the Court exercise this power. Indeed we are told by William Marshall Bullitt that the leading statesmen of the Constitutional Convention, including James Madison and George Mason, understood that the overthrow of unconstitutional legislation was, as it now is, the inherent power and duty of the judiciary.

Now the affirmative have based their case, in part at least, upon two contentions: First, that when three or four of the nine justices of the Supreme Court fail to see that a statute is unconstitutional, the unconstitutionality of the statute is doubtful; and second, that Congress should have the power by a two-thirds vote to re-enact federal legislation whose unconstitutionality is thus doubtful.

Let us first consider the second of these contentions—that Congress should have the power by a two-thirds vote to re-enact federal legislation whose unconstitutionality is doubtful. I would remind our friends of the affirmative that their proposition would extend to Congress the power to re-enact *any* federal legislation whether or not its constitutionality be doubtful. Since they argue that the dissent of three or four justices is a basis for maintaining that the unconstitutionality of invalidated legislation is doubtful, they cannot hold that the unconstitutionality of legislation is doubtful in cases where the nine justices unanimously declare it so. And since about forty per cent. of the decisions of the Supreme Court are unanimous, the affirmative remedy takes in far more ground than even the alleged evils call for. We find them advocating a remedy far-

reaching in its application, a remedy which would apply to all decisions of the Court, that an alleged evil which they say exists only in divided decisions of the Court might be remedied. In other words they would amputate both hands of the Court that an alleged infection in the one might be cured.

Let us now consider the first contention of the affirmative—that when three or four of the justices fail to see that a statute is unconstitutional, then the unconstitutionality is doubtful. From the time of Chief Justice Marshall to the present day the Court has steadily adhered to the rule that every possible presumption is in favor of the validity of an act of Congress until overcome beyond rational doubt. The affirmative have taken this principle of the Court and construed it in such a way as to suit their case. We propose to go to the Supreme Court records and show from them that the affirmative have no support for their construction.

In 1867 the Supreme Court declared the *Test Oath Act* unconstitutional by a vote of five to four. Justice Field in expressing the majority vote of the Court said: "In the case of an act of Congress the inconsistency of the act with the Constitution should be so clear as to leave little reason for doubt before we declare it invalid." Thus we find a clear statement of the principle at a time when four justices dissented. The act was declared unconstitutional. Surely the Supreme Court justices are not so stupid that they would enunciate and violate a principle in the same opinion. Therefore the Court implied by its action that there was a clear case of unconstitutionality even if four justices did dissent.

As Robert E. Cushman of the University of Minnesota says in an article in the *Michigan Law Review*: "This doctrine of reasonable doubt means that a statute should not be declared unconstitutional as long as a reasonable doubt as to its invalidity remains in the minds of those to whom is intrusted the power to decide the question of unconstitutionality, and under the present arrangement this means a majority of the Court. In other words so long as the rule exists that five members of the Court decide questions for the Court all the doctrine can be said to mean is that five of the nine members of the Supreme Court must be sure *in their minds* that a law is unconstitutional." This is what the Supreme Court has always understood by its doctrine.

Now we insist that if the affirmative use the Supreme Court's doctrine, they must accept the Supreme Court's understanding of the doctrine. And if they accept the Supreme Court's understanding of the doctrine, they are not justified in claiming that the dissent of three or four justices creates a reasonable doubt. They then have no basis for their argument.

**Second Negative Rebuttal, Joel V. Berreman**  
Willamette University

The gentleman who has just left the floor has told us that Congress now has in its hands a most extensive and throttling power over the Supreme Court, in its right to regulate the appellate jurisdiction of the Court. He has claimed that this is much more powerful and effective than re-enactment would be. Yet throughout their con-

structive case the gentlemen have emphatically maintained that the Court to-day is practically unchecked. We of the negative feel that this inconsistency demands an explanation, for the Court can scarcely be unchecked if Congress has this extensive control over its acts. In fact we contend that this latter argument of the affirmative directly supports our contention that Congress has already sufficient control of the Court, and that it would be highly unwise to remove from the Supreme Court its only remaining power—that of interpretation of law—and to place it in the hands of an already too powerful Congress.

The gentlemen have further continually inferred that the Supreme Court has been supplanting Congress and performing a legislative function. Let us see just the nature of the Court's action. As I have shown before, the power of the Court is merely to interpret law and to apply the laws to particular cases. It has not to its name one single positive power. It cannot enact a single law; it cannot even propose a law. It cannot appropriate a dollar of money. It cannot enforce its decisions, nor can it even raise troops to protect itself. Its only power is to offer, in cases which with the sanction of Congress have been voluntarily appealed to it by some individual seeking protection from injustice, its opinion as to the constitutionality of the law involved. Clearly there is nothing aggressive or dictatorial in this power. The affirmative have yet to show us how, under the present system, the Court can legislate, for to legislate is to make and enact laws. This, as I have shown, is impossible under the present system.

We of the negative have further shown that we have a direct means of obtaining unconstitutional laws, when the people really desire them, by the process of amendment. Our opponents have argued in turn that there is danger of obtaining harmful amendments. They have cited California's state constitution as an example and pointed to many unnecessary amendments to that document. Now it is plain from the very nature of an amendment that it can do us no harm in itself, for it is not a statute but merely a grant of power to Congress. Now if Congress is as unresponsive to the voice of the people as the affirmative would have us believe, then there is no danger that this grant of power will be directly harmful. As to your state constitution, I challenge the gentlemen to point out any real harm to the state of California arising from the amendments to your constitution. Clearly, amendments are not in themselves harmful; if an unwise one is added, it is harmless, for it does not apply as does a specific law.

Now in an attempt to defend Congress the affirmative have maintained that it expresses the will of the people, and further that the power of the people to reelect Congressmen at stated periods is sufficient check upon its powers. As we have already pointed out, Congress is notoriously subject to political influences, to the dictates of party leaders and of small blocs; that it is slavishly subservient to committees of a few men, and to lobbies and big interests. Its collective action has often been entirely stopped by one man in filibustering; and I have quoted Senator Stanley himself, who says that it does not express the will of the intelligent mass of

the people. Surely, with this situation existing it is impossible for the people to know the exact actions of their individual Congressmen and to re-elect accordingly. But even if they could the actions of large majorities can thus be thwarted by the representatives of a very few. Congressmen, moreover, have a fixed term of office, and during that time the people have no means whatever of controlling their acts. Even the recall which exists in some states does not apply to Congressmen. It is our contention that the people have very little direct means of controlling Congress by their power of re-election. It would therefore be highly unwise to take away all other checks from our legislative body. But at present with the check of the constitutional limitation enforced by the power of the Supreme Court, there is no real danger of an infringement of our rights.

Now to sum up the negative case briefly:—We admit that there is a need at times for unconstitutional laws. We have shown that the cases which the affirmative have mentioned were merely indicative of this fact, and we have shown that the present system provides an adequate means of obtaining these laws by constitutional amendment. If Congress fails to employ this method, then there is no reason to believe it would re-enact, for both amendment and re-enactment require the same two-thirds vote. And if the people fail to ratify an amendment, then re-enactment would obtain laws which the people do not desire. We have shown that amendment is as efficient, practical, and speedy as re-enact-

ment could possibly be if it were at all expressive of the people's will. There is, therefore, no real need for the change.

We have shown, moreover, that if the Court is to be further checked, it is unwise to give Congress this power, for it would not only give that body judicial power, which it is not fitted to exercise, but would also make it the judge of its own acts. We have pointed out that the affirmative plan would disrupt our present system of government, would break down our system of checks and balances, and in so doing would bring three inevitable results; First, the Court would be reduced to a mere advisory board. Second, the purpose and function of the Constitution would be destroyed. Third, Congress would be made supreme and unchecked, and there would be serious danger of a misuse of such an extensive power.

In closing let me quote Charles Warren, the well-known authority on the Constitution and the Court. He says: "Admit that the federal judiciary may in its time have been guilty of errors, that it is as fallible as every other institution, yet it has been and is a vast agency for good; it has averted many a storm which threatened our peace, and has lent its powerful aid in uniting us together in the bonds of law and justice. Its very existence has proved a beacon of safety, and now let us ask ourselves, with all of its imagined faults, what is there that can replace it? Strip it of its power, and what shall we get in exchange? Discord and confusion, statutes without obedience, courts without

authority, an anarchy of principles and a chaos of decisions, till all law shall at last be extinguished in an appeal to arms."

In view of the small advantage to be gained, and the great risk to be taken, we must agree that it is inconsistent with the best interests of the American people that we adopt the affirmative plan.

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EXCLUSION OF JAPANESE  
IMMIGRATION



# EXCLUSION OF JAPANESE IMMIGRATION

## *UNIVERSITY OF CALIFORNIA AT LOS ANGELES*

The Southern California Public Speaking Conference of which the Southern Branch or Division of the University of California is a member, debated the following subject during the season of 1925: Resolved, that the Immigration Act of 1924 should be so amended as to admit Japanese on the same basis as Europeans.

The University of California at Los Angeles received second place in the league standing, losing only one debate out of the six scheduled in the conference. The university during the two years previous tied the 1925 winners each season, once for first place and once for second.

The affirmative here presented won unanimous decisions from the University of Southern California, Occidental College, and Whittier.

The negative speakers won unanimous decisions from Pomona College and the California Institute of Technology, and lost by a two to one decision to the University of Redlands.

Mr. Berger and Mr. Schottland, upholding the affirmative of the same proposition, won a unanimous decision from Stanford University.

The following speeches were collected and contributed in behalf of the debaters by Professor Charles A. Marsh, Head of Public Speaking at the University of California at Los Angeles, who is in charge of debate and oratory contests.

### **First Affirmative, William Berger** **University of California at Los Angeles**

LADIES AND GENTLEMEN: It would seem, at first sight, about as dangerous to argue for Japanese immi-

gration, before an audience of Los Angeles people, as it would be to argue for light wines and beers, before an audience composed of members of the Anti-Saloon League. If there is one self-evident fact about this question of Japanese immigration, it is that such immigration should be rigidly restricted. I would like to say at the outset of this discussion, that Mr. White and I are entirely in sympathy with the rigid restriction of Japanese immigration. We believe, however, that this can best be accomplished by repealing Section 13c (the exclusion clause) of the Immigration Act of 1924. A brief history of Japanese immigration will not be amiss at this point.

Japanese immigration to the United States began about 1890. During the next few decades it increased quite rapidly. It soon became apparent to both the United States and Japan, that some restrictive measures would have to be adopted. Accordingly, in 1907 President Roosevelt negotiated with Japan the famous "Gentlemen's Agreement." Under the terms of this agreement Japan promised to prevent Japanese laborers from entering the United States. That the "Gentlemen's Agreement" was a complete success is evidenced by the fact that between 1907 and 1923 our Japanese population increased through immigration only 8,681; about 500 a year.

This brings us to the Immigration Act of 1924. By its provisions each foreign country is allowed a yearly quota of immigrants equal to two per cent. of the number born in that country, who were resident in the United States in 1890. For example, there were about 2,550,000 Germans in the United States in 1890. Two

per cent. of that number or 51,000 will be admitted yearly under the new law. Upon this basis Japan's yearly quota is 100. Here was an admirable opportunity to rigidly restrict Japanese immigration in a friendly, non-discriminatory manner. The Senate Immigration Committee was not unaware of this situation, and to the original draft of the Senate Bill added an amendment which placed Japan on the quota basis along with the European nations. The exclusion clause, urged by certain western, vote-seeking representatives, was definitely rejected.

When the exclusion clause was proposed, however, Mr. Hanihara, the Japanese Ambassador, sent a diplomatic note to the Secretary of State Hughes, calling attention to the discriminatory nature of such a clause and mentioning the "grave consequences" to the friendship of the two nations, that would result if it were adopted. Now the words "grave consequences," like the words "could not look with indifference," are merely a part of the customary language of diplomacy and are constantly used in diplomatic correspondence. But unfortunately the Senate is not well versed in diplomacy and its "chip on the shoulder" nationalism was aroused. The note was a "veiled threat" said the Senate, and no one can threaten the Senate of the United States.

Senator Reed expressed the attitude of the Senate, when, after admitting that the quota basis was desirable, he said, "I feel compelled on account of that veiled threat, to vote in favor of the exclusion clause and against the committee amendment." The Senate's ire was completely aroused, and "Hell hath no furies like

a Senate that thinks itself scorned." The result was that the Senate usurped a right that is ordinarily the prerogative of women—it changed its mind. Senators who had favored a quota basis for Japan, Senators who had opposed the exclusion clause, turned around and voted against the quota basis and in favor of exclusion. And this was done, Ladies and Gentlemen, by representatives who admitted that the quota basis was far and away the better method of restriction!

The exclusion clause was opposed by the National Chamber of Commerce, the World Peace Foundation, and many national church organizations. It was opposed by the heads of thirty of America's leading universities, including Charles W. Eliot, President Emeritus of Harvard, W. W. Campbell, President of the University of California, and David Starr Jordan, President Emeritus of Stanford. President Coolidge was obliged to sign the bill because of its other provisions. But in doing so he said, "If the exclusion provision stood alone, I should disapprove it without hesitation."

Now the question of admitting or excluding a mere 100 Japanese a year is not, in itself, important. It amounts, in fact, to practical exclusion. One is inclined to wonder, then, why we should go to all the trouble of making the change if it makes such little difference. This brings us to a very vital point in this discussion. Friends, Japan is a proud nation. The Japanese people are just as proud of their nation as we are of ours. They are just as sensitive about their nation's honor as we are of ours. Japan does not want to send her nationals where they are not wanted. In fact Japan



does not object to the practical exclusion of her people, so long as it is accomplished in a non-discriminatory manner. But the word "exclusion," or its equivalent, has come to have a meaning, that to the sensitive oriental mind is exceedingly repugnant. In their minds such terms bear a stigma of inferiority and for this reason alone, Japan protests the exclusion clause. To her it is an attempt to brand her nationals as undesirables. It is difficult perhaps, for us to understand the extreme sensitiveness of the Japanese people upon this point. We could only understand it, perhaps, by putting ourselves in their places, by subjecting ourselves to the bitter race prejudice and hatred to which they are subjected. Then we too would feel as they do on the subject. Then we too would object to a discriminatory exclusion clause that singled us out from the other races of the world and branded us as inferiors. Japan, in objecting to the exclusion clause, is doing no more than the United States would do, if placed in a similar situation. She is to be respected rather than condemned for her attitude.

Ladies and Gentlemen, by placing Japan upon the same basis as European nations, we can effect the practical results of exclusion in a friendly, non-discriminatory manner. Why then should we offend the delicate race sensibilities of the people of Japan, with such an unnecessary affront as an absolute exclusion clause? The quota basis would admit but one hundred Japanese a year. When we compare this with the 51,000 Germans and the 34,000 English who are to be admitted, it amounts to practical exclusion. Why if the

entire 100 came to California, which is unlikely, there would be added to each thousand square miles of its surface, less than one third of one Japanese! Surely such rigid restriction ought to satisfy the demands of the most rabid exclusionist.

As a matter of fact, a small number of Japanese are very valuable to California. The Japanese have done more to spread the fame of California as the land of fruits and flowers than anyone else—more, even, than our real estate agents. I don't know what would follow if all the Japanese left California, but I am reminded of a remark made by a bright freshman in one of our English classes the other day. The teacher asked, "What would follow if all the co-eds were to leave college?" From the back of the room came Johnny's voice, "If you please, ma'am, we would!" Perhaps the same thing applies to the Japanese in California.

Ladies and Gentlemen, the admission of 100 Japanese a year could not possibly do any harm. On the other hand it would do a vast amount of good. It would be recognizing the Japanese as human beings and treating them as such. It would remove the stigma of inferiority that the exclusion clause has so unjustifiably placed upon a great and friendly nation. Justice and equality are two of the mightiest pillars of our social and political philosophy. I cannot but feel, friends, that these pillars have been weakened by the discriminatory Japanese exclusion clause. Such a clause, obviously unnecessary, to accomplish the desired results, and directly discriminatory to a proud and sensitive people,

is an undesirable departure from the American concepts of justice, and equal treatment to all. Such a departure is unwarranted and unnecessary. We are the only nation in the world that has enacted against Japan a discriminatory exclusion measure. Friends, shall America, the first nation in the world to announce as its motto "Justice and Equality," turn around now, and be the first nation in the world to depart from these principles? Such hypocrisy is inconsistent with the thoughts and ideals of the American people. The Japanese exclusion clause is a mistake, a regrettable, unfortunate mistake. For this reason we urge its repeal.

We urge the repeal of the Japanese exclusion clause because it was passed in a thoughtless moment, and against the cool judgment of the majority of thinking Americans. We urge its repeal because it is unjust and discriminatory; because it is opposed to those great principles of justice and equality upon which our nation is based. We urge its repeal because it is an unnecessary and unwarranted affront to the delicate racial sensibilities of a friendly nation.

We favor placing Japanese immigration on a quota basis because it will accomplish the practical results of exclusion in a friendly non-discriminatory manner; because it reconciles the need of rigid restriction with the principle of equal treatment. Fair play and a square deal to all—these are characteristic American phrases. They are the admirable traits of the American people. What the affirmative asks this evening is merely that America put these into practice; that in dealing with

Japan we observe the same principles of fairness, the same courtesy, the same decency, that we observe in our relations with the other nations of the world.

Second Affirmative, Arthur E. White  
University of California at Los Angeles

MR. CHAIRMAN, LADIES AND GENTLEMEN: We have been accused by the gentleman of the negative of upholding the quota basis plan because it is "almost as good as exclusion." He asks, "If the results would be the same, why should we change?" Friends, we believe that our plan is not "almost as good as exclusion" but better than exclusion, and therefore it should be adopted. As my colleague has shown you it accomplishes the practical results of exclusion, by keeping out the undesirable immigrants and admitting only one hundred Japanese a year. But its great superiority over exclusion is due to the one important fact that the Japanese are given equal treatment with other nations; are not discriminated against; thus putting into practice that great American doctrine of the equality of races.

Having found that the quota amendment will accomplish practically the same results as exclusion, without sacrificing the principle of racial equality, we must now discover what difference the application of the quota basis to the Japanese would make in international affairs. I will show you that putting Japan on a quota will re-establish friendly relations between Japan and the United States.

As you undoubtedly know, when the Japanese Exclusion Act was passed in May, 1924, a great wave of angry protest swept over Japan. Cablegrams were sent; notes were written; demonstrations were held; Americans were insulted by crowds; signs appeared saying, "Hate Everything American," "Americans Keep Out of this Store," and so on. All over Japan was evidenced this great feeling of hate and wounded pride. Why? Well, suppose that you, as the American people, were discriminated against. How would you feel? What would be your reaction? You would be angered, insulted; you would feel you were not being treated as citizens of a great world power should be treated!

And just so, in the actual case, the Japanese feel the same way. They believe the principal reason for their exclusion was race prejudice; they further believe that nationals of Japan, one of the world powers, are entitled to more just consideration and deserve a policy of non-discrimination on the part of the United States.

Now, is this a healthy situation? Is it a condition of affairs in accord with the best interests of the United States?

Let us see. First, what is the most desirable political condition? Obviously it is one of friendship. Good results can be obtained only while friendship exists. Of course we can not have friends unless we treat them decently. The Japanese Exclusion Act does not even treat the Japanese decently. For example, Mr Omurea, an assistant in the Union Christian Church here in Los Angeles, wants to bring his wife over to America, but he cannot because of the exclusion law.

Thus he must choose between getting domestic happiness by returning to Japan, or performing Christian service by remaining here in America. He must choose between domestic happiness and religious service when any civilized person will agree that the two should go hand in hand! Furthermore, Mr. Omurea's case is not an isolated one, for there are many other Japanese in similar predicaments.

Now, can we force such hardships on the Japanese and still expect their friendship? They are bound to resent such treatment. When the Chinese were excluded from the United States, they resented the exclusion, and as a result American exports to China were reduced by fifty per cent. in two years. The Japanese are even more sensitive than the Chinese, and their resentment is bound to result in a reduction of American exports to Japan.

Is it logical that the United States should exclude only one hundred Japanese a year, when this exclusion works unnecessary hardship on the Japanese, resulting in bitter feelings, antagonism, and curtailment of our trade? Of course, it isn't, and yet we do it!

We do not seem to realize that it is to the best interests of the United States, regardless of whether or not Japan wants exclusion, to keep on friendly terms with the Japanese people by letting in only one hundred of their countrymen each year. Japan has gradually developed until she is now a great world power. In 1902 she won a startling victory over Russia in the Russo-Japanese War. At the Versailles Conference and in the League of Nations she was rated as a "principal power."

Her ambition has always been to be treated as an equal, and in order to attain that end she has studied American civilization and reformed her country along the lines of modern improvement. She has developed science and art, and provided popular education. Her buildings are American; the predominating automobile is the Ford; the Japanese use everything American from phonographs to ice-cream freezers, including motion pictures.

Japan is the only nation in the Orient that compares with the other countries of the world in intelligence, culture, and civilization. She has qualified herself as an outstanding member of the Sisterhood of Nations. She now stands as one of the four great powers of the world. But we do not fear Japan. We do not recommend the quota basis because we are afraid of Japan, but because it is the right and just thing to do for a nation which has achieved so much. It is on the principle of justice, and equality with the other great world powers, that we recommend the quota basis for Japan. Because of her labor, her progress, her persistency, and her accomplishments, she is worthy of recognition. She is deserving of the respect of all other nations, and her citizens are perfectly justified in feeling that they deserve equality of treatment, and a policy of non-discrimination on the part of the United States.

But do we recognize Japan's position as a world power? No, we treat her as a nation of no consequence, we engender the hatred of one of the greatest powers of the world, merely because we want to keep out a mere one hundred of her nationals each year. Is there

any justification for it? None whatever! It is obvious that we should do everything within our power to keep on friendly terms with Japan. But Edgar A. Bancroft, the new American Ambassador to Japan, said just after the passage of the bill: "Congress did more to sow the seeds of war than all our peace societies can undo in years." Senator Reed, who voted for the passage of the Exclusion Act said, "I believe that this action means the waste of much of the results of twenty years of American diplomacy." Former Secretary of State Charles Evans Hughes said, "I believe such legislative action would largely undo the work of the Washington Conference on Limitations of Armaments, which so greatly improved our relations with Japan." And the prophecies of these men are coming true. Despite the contention of our opponents that Japan's anger soon cooled down, the Japanese people still resent the insult. A moment's conversation with any Japanese will show that antagonism and friction still exist and will continue to exist until we put Japan on the quota basis.

Plans are under way for another disarmament conference. The *Osaki Osahi*, a Japanese newspaper, said a few weeks ago, "The United States is not in a position to promote such a conference because of her injustice toward Japan." This, and other quotations which I have at hand, indicate that if we invite Japan to a Limitation of Armaments Conference, she will laugh at us. She will say, "The idea of smearing our faces with mud and then asking us to come over and play!" So, here again, the exclusion law is defeating the purpose of peace and friendly relations, while the



admission of only one hundred Japanese a year would remove the difficulty and promote peace.

Again, the quota basis plan would promote peace in the whole Pacific because, as the *Living Age* of August 30, 1924, tells us, "Many forces in South America and in the Far East are preparing to unite in a great uprising against the United States under the leadership of Japan." Now it is not the intention of the affirmative to hold up the bugaboo of war, but there are certain facts which must be recognized. For instance, Japan is building five hundred airplanes each month, a number larger than the total number of airplanes in possession of our Army and Navy, or even planned for future construction. You have heard the astounding revelations by Colonel William Mitchell. Possibly he exaggerates, but no sane person will declare that we are adequately prepared to meet an attack in the air. Now, we do not maintain that there is any immediate possibility of war, but nevertheless, it is our contention that war is *not impossible*, and that anything that can be done to prevent even the possibility of war should be done by the United States.

The one act that would go further toward maintaining peace than any other is the placing of the Japanese upon the quota basis, admitting only one hundred Japanese a year. Obviously this would satisfy Japan, remove all bad feelings, produce a spirit of friendship and coöperation, and in general, would remove all the destructive effects of the Japanese Exclusion Act of May, 1924.

The affirmative has shown you the advisability of a

plan which will correct an error made by Congress in a fit of emotion; a plan which practically excludes Japanese without discrimination; a plan which will remove many of the unnecessary hardships worked on the Japanese by exclusion; a plan that will safeguard our trade; a plan that recognizes Japan's equality with the other great nations of the world; a plan that will preserve peace and prevent any possibility of war. In other words, we have proved to you that because it will accomplish the practical results of exclusion without discrimination, and because it will promote peace and friendship between Japan and the United States, the Immigration Law of 1924 should be so amended as to admit Japanese on the same basis as Europeans.

I would like to leave you, Ladies and Gentlemen, with this question in your minds: "Are one hundred Japanese a year so undesirable that it is wise for us to exclude them from the United States, and sacrifice the principle of non-discrimination, refuse the ordinary courtesies that one great power should extend to another, and lose the trade, the friendship, the respect and the good will of the Japanese people?"

First Affirmative Rebuttal, Arthur E. White  
University of California at Los Angeles

MR. CHAIRMAN, LADIES AND GENTLEMEN: The gentlemen of the negative have presented a very unusual argument for your consideration. They argue that because there is opposition to the Japanese, therefore, they should be excluded from the United States.

They tell you that the people of California erected placards insulting the Japanese. Of course there is some opposition to the Japanese. They are industrious, hard-working people, and they get results. Anyone who gets along a little better than the other fellow is likely to be unpopular. But are we legislating according to popularity? Are we to discriminate against all who are unpopular? If so, I am afraid we would soon be overrun by discriminatory legislation. Yet our opponents tell us that because there is opposition to the Japanese, they should be excluded. Following the gentlemen's logic we might say that because there is opposition to the Japanese students at the University of California, and there is some without doubt, they should be excluded from the University. This is obviously an unjust and unwise conclusion. So, just as the Japanese students should not be excluded from the University, the Japanese immigrants should not be kept from our shores because of the opposition of a few jealous or race-prejudiced individuals.

In another attempt to justify exclusion of the Japanese, the gentlemen have told us that Japan herself agreed that if she did not abide by the "Gentlemen's Agreement" exclusion would follow. It is our opinion that Japan made every effort to abide by the "Gentlemen's Agreement," but we are not interested in arguing whether or not that agreement was violated. The point is, not what was agreed a number of years ago, but what Japan wants now, and whether we should give her what she wants.

Now the gentlemen have argued that the quota is

entirely unnecessary because the Japanese themselves do not desire a quota. This seems almost a nonsensical argument when we consider it seriously. We might as well say the Japanese have no pride, no ambition, no desire for international recognition. We might as well say that the Japanese do not get hungry at meal time as to say they do not desire a quota. Now, of course, they do not want the quota basis because it allows one hundred of their countrymen to enter this country each year; they want the quota because it would be recognition of their position as a world power, because it would remove the stigma of discrimination placed on them by exclusion. If the gentlemen want authority, we cite Mr. Ito, a graduate of the University of Chicago and president of the largest shipping company in the far east; Mr. Ikeda, Manager of the Mitsu Bank, and the ablest financier in Japan; Mr. Shibusawa, a Japanese Statesman and America's greatest friend in Japan; Mr. Fukai, a director of the Mitsu Bank—and I could mention the names of many other eminent Japanese who would favor any method of solving the present problem in a non-discriminatory manner. I believe we have proved to you that the only way to settle the difficulty in a just, fair, non-discriminatory manner, is to recognize Japan's equality with the other great nations of the world and admit her nationals on the same basis as Europeans. This would remove the ill-feeling caused by exclusion and assure friendly relations between Japan and the United States for the future.

And then the second speaker for the negative argues

that this question of Japanese immigration is a closed incident; after we have been vigorously debating this question for an hour or more, the gentleman tells us that the die is cast, the issue is dead. But, Ladies and Gentlemen, no diplomatic incident of this kind can ever be closed in such an unsatisfactory manner. No issue is a closed incident when it violates the rules of common courtesy between nations and the principles of justice and fair play; when it secures for us the hatred of the people of a great nation, and the loss of a great part of their trade. It is inevitable that the issue will be reopened, and settled for our own real best interests, as well as for those of Japan.

Still the gentlemen insist that we should not reopen this issue, which was never really closed, because it would discredit the United States in the eyes of the world, since it would appear that Japan was dictating our policy. But, friends, all Japan is asking for is equality, a policy of non-discrimination on our part, not for a quota, for that is merely the means to the end. Is there dishonor or discredit in recognizing the equality of a sister nation? We of the affirmative submit that it is far more honorable to recognize an error than to continue to maintain an unjust, unfair, and even indecent policy toward Japan.

We now find that the gentlemen of the negative have, in the first place, attempted to justify exclusion because there is opposition to the Japanese in the United States, and because Japan agreed to exclusion if the "Gentlemen's Agreement" failed. But we have proved that op-

position to the Japanese is not a valid reason for exclusion because popularity is not a criterion of desirability; and we have shown that the question is not whether Japan at one time made concessions concerning exclusion in connection with the "Gentlemen's Agreement," but whether Japan now wants the quota basis, and whether it is best to give her what she wants.

In the second place the gentlemen have declared that we should not give Japan the quota because they do not want it themselves; but I have cited many Japanese to show that they want a policy of non-discrimination on the part of the United States, and the best way to put that policy into practice is by placing Japan on the quota basis. Finally, they have claimed that the quota should not be granted because the incident is closed and to reopen it would discredit the United States in the eyes of the world. However, we discovered that by our very discussion here this evening, we prove that the incident is not closed, and that to recognize the equality of Japan and to cease to discriminate against her would be the most honorable course we could possibly follow.

I appeal to you, friends, to favor a plan, which although it would add only one Japanese to each one thousand five hundred twenty-eight square miles of territory, if they all came to California, would retract the insult of our back-handed slap at Japan, would not discriminate against Japan, and hence would insure for all time good will and friendship between the American and the Japanese people.

Second Affirmative Rebuttal, William Berger  
University of California at Los Angeles

LADIES AND GENTLEMEN: The gentlemen of the opposition have asserted that in our attempt to treat Japan in a non-discriminatory manner, we are discriminating against the other nations of the Orient, whose nationals are excluded from our shores by other legislation. In answer to this I would like to say that the affirmative believes that the entire Orient should be placed upon a basis of equality, with such additional restrictions as would exclude laborers. But this is not the question we are debating to-night. To argue, as our opponents have done, that by placing Japan on a quota basis we would be discriminating against China, is to argue in a complete circle. For, if we were proposing a quota basis for China, the gentlemen would oppose it because we would be discriminating against the Hindus. And if we were proposing a quota basis for India, they would oppose it because we didn't give it to Japan. But our opponents do not want to give Japan a quota basis. So how are we ever to get started? We demand that our opponents meet us on the Japanese question to-night. We should be glad to discuss any of these other questions at some appropriate occasion in the future. But to argue as our opponents have done will obviously get us nowhere. To say we should not place Japan on a quota basis because it discriminates against the rest of the Orient, is to argue that because we can't get rid of poverty all at once, we should make

no attempt at all to do so. It is to say that since we cannot catch all murderers, we should not try to catch any; it discriminates against those who go free!

The gentlemen of the opposition have also said that the exclusion clause merely enforces the provisions of the "Gentlemen's Agreement." I am very glad to see that our opponents admit that the "Gentlemen's Agreement" was, to all intents and purposes, as successful as an exclusion clause. But the trouble with the exclusion clause, friends, is that while it enforces the provision of the "Gentlemen's Agreement," it does not enforce the principle of that agreement; and it is on principle that we are debating this question to-night. The opposition must admit that the quota basis will accomplish the practical results of exclusion. Our only dispute to-night is whether we shall accomplish that result on a principle of fair play and equal treatment, or on a principle of unjust discrimination. Thus far the gentlemen have advanced no good reasons in support of the principle of discrimination. On the other hand we have pointed out that if we are to remain true to our own national ideals of fair play and equal treatment, we must accomplish the results of exclusion in a non-discriminatory manner. We must place Japan upon a quota basis.

Our opponents have spent considerable time this evening discussing the non-assimilability of the Japanese people, the race prejudice that exists against them, and their effect upon American labor. Now while much of this evidence is substantially true, I fail to see its application in this debate. Recent immigration statistics



show that the number of Japanese leaving this country yearly, has exceeded by several thousand the number arriving. The quota basis would admit but one hundred a year, and there would still be the thousands returning to Japan yearly. The result would be that if the quota basis were adopted our Japanese population would not increase by immigration. All the statistics and facts presented by the opposition as to the effect of the Japanese who are now in the country are therefore entirely irrelevant. The gentlemen of the negative cannot show that the admission of one hundred Japanese a year would increase our Japanese population. They cannot, therefore, oppose the quota basis on the grounds that a large Japanese population is undesirable.

Before concluding, I would like to touch briefly one other argument that has been urged against the plan we propose; namely, the so-called "dual citizenship" argument, that insists the Japanese cannot make good citizens because Japan always claims them as citizens, even though they become citizens of another country. Whatever merit there may have once been in such an argument, it is no longer of any efficacy, because Japan by recent legislation has repealed her dual citizenship law.

First Negative, Charles Schottland  
University of California at Los Angeles

MR. CHAIRMAN, LADIES AND GENTLEMEN: The question which we are debating to-night is of special interest to you because it is in California that the Japanese problem presents itself in its most serious aspects. For years

the people of California have tried to persuade Congress to pass an exclusion law. For years eminent men have worked to harmonize our naturalization laws and our immigration laws, in other words to exclude from the United States those aliens who are ineligible to citizenship. The exclusion law of 1924, which excluded all Orientals except certain desirable classes, satisfied both of these groups. Now the gentlemen of the affirmative wish to amend this law, wish to undo all the good work which has been done, and wish to bring back the opposition to Japanese immigration which was so prevalent before the exclusion law went into effect. And what reasons has the gentleman who has just left the floor advanced in order to convince you that this step should be taken? The gentleman has urged that we adopt the quota because he says that it is almost as good as exclusion. In other words, one of his strongest arguments for the quota is that it does not differ very much from exclusion. That, I think, is a perfectly logical reason why we should not amend the present law. If the results are practically the same, then why change? The gentleman says the quota will do no harm? We ask him, "What good will it do?" He has told you that it would exclude the Japanese without discrimination and has gone on to explain and defend the American policy of non-discrimination. We of the negative believe in this policy of non-discrimination, and for that reason we uphold the present law. The present law places Japanese on the same basis as other Orientals. That certainly is not discrimination. The law applies to over one billion people of which the Japanese con-

stitute only one twentieth. Now the affirmative wish to take the Japanese out of the class of Orientals and thereby discriminate against all the rest of the yellow race. Ladies and Gentlemen, the Japanese are Orientals. The gentlemen of the affirmative cannot, either by logic or rhetoric, convince you that they are Europeans. And if they are Orientals, then they should be placed on the same basis as Orientals and not on the same basis as Europeans. If the gentlemen of the opposition are sincere in their plea for non-discrimination, then we ask them why they uphold a plan which will bring about more discrimination as my colleague will later show.

The gentleman of the opposition has also told you that Congress passed the exclusion law in a fit of emotion and for no other reason than a misinterpretation of Ambassador Hanihara's letter. Such a statement merely shows our opponents are misinformed as to the true facts. As Chairman Johnson of the House Immigration Committee points out, "The statement that the Japanese Exclusion Act was occasioned by Ambassador Hanihara's letter is false. Long before the letter appeared the House passed the measure by more than four to one and a poll in the Senate the day before showed at least fifty-four votes certain for exclusion." So we see that the exclusion act was not a hasty piece of legislation. It was enacted only after a long and vigorous fight on the part of the laborers, farmers, business men, and statesmen of the Pacific Coast, and we of the negative will try to convince you that the law should not be changed and that Japanese should not be put on the same basis as Europeans.

It shall be my duty as first speaker of the negative to defend the present law and to prove to you that the exclusion of Japanese is justifiable. In the immigration laws just passed, Congress sought to reduce the immigration of those peoples of Southeastern Europe, or those peoples, whom experience has proved, were not readily assimilable into our political system. Following out this policy a little further Congress excluded all those ineligible to citizenship, or all those who could never hope to become assimilated into our political system. Now the courts of the United States have decided that all Orientals are ineligible to citizenship, and we believe that if Orientals are ineligible to citizenship and cannot be assimilated into our political system, then the United States is justified in maintaining a policy of exclusion toward them.

There has always been vigorous opposition against the admittance of Japanese. As far back as 1887, Japanese exclusion was being demanded even though there were only a few hundred Japanese in the entire country. Now we of the negative bear no ill-feeling toward the Japanese. But the fact remains that they are different. They belong to a different race. Their ways are not our ways, their culture is not our culture, and their ideals are not our ideals. They are not inferior; they are merely different. And because of this difference, opposition against them has arisen and will continue to arise. Since the two races cannot live side by side peaceably, and experience has proved that they cannot, then a measure which will keep them apart is justifiable. I need not tell you who live in California of the opposition to

the Japanese. Everywhere we used to see signs, "Japs not wanted" or "Japs keep moving." Now that we have exclusion this opposition has died down. Our exclusion leagues and our race riots have disappeared. But if we give the Japanese a quota, we will open up again the same question which Congress tried to settle by the exclusion law. Our exclusion leagues would again appear and the problem would be still unsettled. There is only one method of solving the problem and settling it forever, and that method is total exclusion. To allow even one hundred Japanese to enter our country would bring about vigorous opposition, intensify the race hatred in the United States, and thus possibly cause serious disturbances within our own country. And so for these reasons, namely, that the two races cannot live side by side peaceably and that the admission of any number of Japanese would only make the situation worse, we believe that exclusion is justifiable.

There is also another very important reason for the justification of the exclusion law. In 1907, Japanese immigration had become such a problem that a Japanese exclusion law, similar to the Chinese exclusion law, already in effect, seemed certain. In order to prevent any such action, Japan proposed the "Gentlemen's Agreement." According to President Roosevelt who negotiated the agreement it was an "arrangement with Japan under which the Japanese themselves would prevent any emigration of their laboring people, it being distinctly understood that if there was such emigration, the United States would at once pass an exclusion law." The report of the Secretary of Commerce and Labor

further adds that "if the 'Gentlemen's Agreement' was not found to be satisfactory, an exclusion law would follow." Thus we see that Japan herself agreed that if Japanese laborers came into the United States, or if the "Gentlemen's Agreement" was not found to be satisfactory, an exclusion law would follow. The negative does not contend that Japan has willingly violated the "Gentlemen's Agreement." We will prove, however, that Japanese laborers have entered the United States and that this agreement has not been satisfactory. One of the methods of violating the agreement and getting Japanese laborers into the United States was that of the picture brides. Thousands of these picture brides entered the United States. In the port of San Francisco alone, from 1912 to 1919, 5,749 of these brides entered the country. In a report, the U. S. Commissioner General of Immigration states, "that most of the picture brides, while they do join their husbands, are farm laborers."

It is true that the picture bride traffic has been stopped, but there has been substituted in its stead the Kankodan brides, whereby a Japanese living in the United States goes over to Japan, marries, and brings back his legally married wife with him, at a cost not much greater than that of the picture bride and just as satisfactory as far as the Japanese is concerned. And so by these two methods Japanese laborers have entered the United States. There are at present over 20,000 farm laborers in California alone according to Schi-hashi, a Japanese himself. And according to the California State Board of Control, over 18,000 Japanese, im-

mediately upon their arrival in this country, became farm laborers. And so we see that Japanese laborers have entered the United States and that the "Gentlemen's Agreement" has not been satisfactory. And so, according to Japan's own agreement, an exclusion law is justifiable.

Now the exclusion law of 1924, as pointed out by Secretary Hughes in his letter to Ambassador Hanihara, merely enforces the understanding embodied in the "Gentlemen's Agreement." Under the exclusion law, tourists, professors, students, and business men will still be permitted to enter the United States. This was the exact purpose for which President Roosevelt negotiated the "Gentlemen's Agreement." The classes which I have mentioned were the only ones that were supposed to enter. Since others have entered, the United States must now adopt more stringent methods to carry out the real spirit of the "Gentlemen's Agreement."

Thus far in this debate the negative has shown that Japanese exclusion is justifiable. We have shown this by pointing out that since Japanese cannot become assimilated into our political system, they should rightfully be excluded. We have pointed out that the admission of even one hundred would cause vigorous opposition. We have also shown that the "Gentlemen's Agreement" has not been satisfactory. And so, according to Japan's own agreement, exclusion is justifiable. And lastly, we have proved that the exclusion law merely carries out our policy as expressed in the "Gentlemen's Agreement."

Now that we have justified exclusion we will go further and show that the quota is entirely unnecessary.

Upon what ground does the affirmative base its case for a quota? I have already shown you that the quota will not accomplish non-discrimination, as our opponents would have you believe. But they will say that the quota is necessary in order to insure the friendship of Japan. What they mean is that Japan has a navy and they are trying to frighten us into giving Japan a quota. We of the negative will show that the quota is entirely unnecessary to insure the friendship of Japan because Japan does not ask for, does not demand, and does not require that her nationals be placed on the same basis as Europeans. What Japan objects to is the method of attaining exclusion and not the exclusion itself. Ambassador Hanihara's letter of April 10 bears out this statement when he says, "It is not the Japanese government's desire to send her nationals where they are not wanted." Now the quota would certainly be sending Japanese nationals where they are not wanted and so we can conclude that Japan herself does not desire a quota.

Yusuke Tsurumi of the Japanese foreign office and a prominent political leader in Japan says, "It was not exclusion that made such a deep impression in Japan. It was the method and the implication of discrimination that created profound feeling." Quoting Ambassador Hanihara again, "The difference on the subject of Japanese exclusion lies in the means of attaining the end, not the end itself." In other words the Japanese deplored the method used to attain exclusion, but they have no quarrel with exclusion itself. In fact the Japanese themselves realized that total exclusion was neces-



sary and in 1919 sought to negotiate a treaty with the United States, called the Shodihara-Morris treaty, which provided that Japan would allow none of her nationals to enter the United States. But the Cabinet was changed and the treaty was never consummated. It shows however that Japan herself desired exclusion as shown by the treaty which I have mentioned. The Japanese do not desire a quota and the gentlemen of the affirmative cannot give a single authoritative statement that they do. The plan of the affirmative, then, is entirely unnecessary to secure the friendship of Japan since Japan herself does not object to the end sought by our exclusion law.

To conclude, I have tried to justify an exclusion policy on the part of the United States by showing that exclusion is necessary in order to harmonize our immigration laws and naturalization laws; that it is justifiable because the "Gentlemen's Agreement" has not been satisfactory, and because it merely enforces our policy as expressed in that agreement. And lastly I have pointed out that it is entirely unnecessary to secure the friendship of Japan. For these reasons the negative believes that the Japanese should not be put on the same basis as Europeans.

Second Negative, Harold D. Kraft  
University of California at Los Angeles

MR. CHAIRMAN, LADIES AND GENTLEMEN: A study of the exclusion of Japanese immigrants from the United States reminds the observer of the extraction

of a sore tooth. The life history of a sore tooth is properly said to be: continuous trouble before removal, temporary pain upon removal, followed by lasting satisfaction, because the source of the trouble has been removed. And what is the story of Japanese exclusion, if it is not, continuous trouble before exclusion, temporary bad feeling upon its enactment, followed by lasting relations of peace and friendship. That is the story of Japanese exclusion just as it was the story of Chinese exclusion. Chinese immigration for many years was the source of friction between the United States and China. Then the United States excluded Chinese settlers by the laws of 1882 and 1884. China was more provoked at the time than Japan was in 1924, manifesting her protest in the form of a boycott of American goods. But her protests were short-lived and permanent friendship followed. During the last twenty years the United States has been in many quarrels with Japan, but in complete peace with China. Why are China and the United States such good friends? One good reason is that Chinese nationals have not been coming into the United States year after year to cause a Chinese problem. Immigration has been removed from those topics that might be used for international controversy between the two countries. In 1924 we extended this immigration policy to Japan and we can look forward to that same peace and friendship.

It is only necessary to study the record to see that masses of Oriental and Occidental peoples cannot live in harmony on the same soil. This fact is evidenced wherever the two peoples have come together. It necessi-

tated the exclusion of Orientals from Australia, Canada, New Zealand and South Africa. In our own country history tells a tale of conflict after conflict. The Japanese school row in San Francisco in 1906, the causes that led to the "Gentlemen's Agreement" in 1907, the many anti-Japanese bills before the California legislature through all the years from 1905 to 1924, the anti-Japanese land laws of California in 1913 and 1920, the forceful deportation of some fifty-eight Japanese from Turlock, California in 1921, not to mention the alien land laws and the conflicts in the other States where Japanese have settled—these things are indicative of the problems that arise when Orientals and Occidentals get together in group contacts. In order to remedy the perplexing situation, in order to establish harmony and order within our borders, in order to promote the welfare of American citizens, Congress passed the 1924 law.

Congress was not alone in its belief that exclusion of Oriental settlers was necessary. Competent students of immigration are united here. Theodore Roosevelt in his autobiography advises us to "keep out of America those Japanese who wish to settle and become a part of the resident working population." J. H. Oldham, secretary of the International Missionary Council, states in his book "Christianity and the Race Problem," that the barriers against Japanese immigration "must be made water-tight," that the problem could never be solved unless Japanese immigration in the form of settlers was cut off entirely. Raymond Leslie Buell, a Harvard professor who has specialized on the question, con-

cludes that "iron-clad exclusion" was the only solution. And so say the rest of the students. The gentlemen have told us that President Coolidge and Secretary of State Hughes opposed the passage of the 1924 law. That is correct. But it is not correct to go on and say that these men are opposed to exclusion or that they favor the same basis for Japan as for Europeans. The President and the Secretary both desired complete exclusion but desired to attain it by a different method. The President, previous to the passage of the 1924 law, desired exclusion by a treaty or an executive agreement. The Secretary, previous to the passage of that law, noting that a quota for Japan would be very small, desired a quota basis as an added check on Japanese immigration not excluded by the "Gentlemen's Agreement." But the minute the 1924 law was passed and the "Gentlemen's Agreement" abrogated, this solution became impossible as Mr. Hughes realized. If you will read his personal letter to Senator Colt and his official note to Hanihara of April 11, 1924, you will see that the Secretary does not favor a quota for Japan to-day. As for President Coolidge, he never asked for a quota for Japan, even coupled with the "Gentlemen's Agreement." He opposed the method used to attain exclusion but not exclusion itself. In his words when he signed the law, "There can scarcely be any ground for disagreement as to the result we want." American students may have opposed the method Congress used to attain exclusion, but they did not oppose exclusion itself. At no time have they favored "the same basis as Europeans" for Japanese immigrants.

Why, even the Japanese are beginning to understand the inevitability of our exclusion policy. Yusuke Tsurumi, formerly of the Japanese foreign office, characterizes the Japanese protest as "a small ripple across a great expanse of water that will never develop into a wave," and comments further, "It is not fair to throw the whole blame on America as other countries have done the same thing." The Japanese ambassador to the court of St. James, Baron Hayashi, expresses identical sentiments, as does Giro Masuda, one of Japan's foremost business men. This attitude is typical. The American students recognize the necessity of exclusion, the Japanese students realize its inevitability. Congress performed a delicate operation perhaps; but the operation has been successful. The crisis is passed. The relations between Japan and the United States will become more friendly than ever before, and for the significant reason that Japanese settlers can no longer come to the United States to cause friction between the United States and Japan. The sore tooth has been removed. The source of continual trouble is gone. International relations are ultimately improved. Internal order is secured. Japanese peoples may still come to America for business, study or pleasure; but the exclusion of Japanese who would settle and become a part of our resident working population is water-tight, iron-clad, and therefore it is satisfactory.

To-day, public opinion may be searched in vain for any worth while sentiment in favor of reopening the matter of Japanese exclusion. At last, we may say that the policy is settled. We may classify it with King Tut,

as a closed incident. It's dead. You may dig it up, but you can't revive it. In the words of Secretary Herbert Hoover, speaking in Los Angeles, "After a forty year fight, the issue of Oriental immigration has been closed for all time."

We could rest our case here, satisfied with the propriety of our existing immigration policy. We could rest our case here, satisfied that any plan which would bring Oriental settlers to our shores is as unwise from a standpoint of internal and external peace and order as it is unnecessary and uncalled for by competent opinion. Surely where there is no evil to be remedied, a remedy is strictly out of order.

But let us look into this particular plan and demonstrate further fallacies and follies. We believe that it can be made clear that allowing Japanese immigrants to come here on the same basis as Europeans, would discredit the United States government in the eyes of the world, and in our own eyes; and also would mean the serious complication of our relations with the Orient as a whole.

First, as to the discredit that this plan would bring upon our government. Do you remember the note of Hanihara, the Japanese ambassador, wherein he warned us that if an exclusion law was passed "grave consequences" would follow? Do you realize the significance of that phrase and the interpretations placed on it by Congress? Do you recall the sentiment of the Senate as expressed by its able chairman of foreign relations, when he said, "We can never consent to a precedent that will give any nation the right to think

that it can stop by threats or compliments the action of the United States when it determines who shall come within its gates to become a part of its citizenship." And subsequent to the "grave consequences" note, do you remember Japan's action before the League of Nations, when she demanded that the League guarantee the equal treatment of her nationals with all other nationals? Do you recall how this move interpreted as an attempt to force the United States to arbitrate her purely domestic questions before the League? To all appearances, Japan was seeking a means whereby she could drag the United States before the League on the question of immigration. Now these acts, the sending of the "grave consequences" note and the action before the League, may not have represented the true feelings of Japan, they may have been unwise acts committed by injudicious Japanese representatives. Yet these acts were official. We must accept them as official acts of Japan attempting to dictate our immigration policy. Now in view of this attempted dictation, if we gave Japan the same basis as Europeans it would appear that the United States was framing immigration laws not to insure domestic welfare, but to please Japan. It would be folly for the United States to allow the impression to go out that Japan had forced us to abandon our exclusion policy. It would be a sign of weakness. Adopt this plan and Japan might experience considerable cerebral inflation, but our prestige and honor as a nation would suffer. The adoption would discredit our government.

Friends, take this argument for what you think it

is worth, remembering that the "grave consequences" note alone was enough to convince our Senate, a body experienced in foreign affairs.

We now come to consider wherein the adoption of this plan would complicate United States relations with the Orient. As touched upon earlier, it would complicate our relations with Japan. It would bring Japanese settlers to the United States in conflict with our naturalization laws, and in conflict with Americans who have to live alongside of them. It would subject the Japanese nation to a continual pin pricking process. It would bring back incessant wrangling with Japan. Put them on the same basis in immigration and would not Japan most logically start harping for the abolition of alien land laws and for equal treatment with Europeans inside the United States? Start this same basis idea going and we would have trouble with Japan. Once on the same basis Japan, noting that we allow thousands of immigrants each year from some Northern European countries, would be likely to become dissatisfied with her "100" and start agitating for a real same basis and the abolition of the arbitrary two per cent. of the 1890 census quota basis. This plan would only bring back the source of trouble, bring back the sore tooth, and reopen an old sore, and cause controversy and conflict between the United States and Japan.

And there is another complication that would accompany this plan, namely, the problem that would arise regarding immigration from China and the other Oriental countries. They too are barred from sending



settlers to the United States. The Chinese immigrant makes just as good an American as the Japanese does, perhaps better. If we admit Japanese surely we should admit the rest of the Orientals. But that would mean thousands of Oriental settlers every year. The gentlemen do not speak of this. They know that there are few people in all the United States who would consider such an influx. Knowing this they discriminate. They admit Japanese but exclude other Orientals. And yet they plead for non-discrimination. To discriminate is unjust they say; yet, they single out the Japanese and allow him privileges; they refuse the Chinese and the Hindoos and the rest of the Orientals. Thus they contradict themselves. The fact is that we must discriminate. We cannot admit thousands of Orientals each year, and the place to discriminate is where you find a great difference. There is a great difference between the yellow Oriental and the white Occidental. Therefore we justly discriminate between them. There is little difference between Japanese and Chinese—they are as like as a row of pins. Therefore we have no right to discriminate between them. If we adopt this plan we draw the line where we have no right to draw it, we frankly discriminate against all other Oriental nations in favor of Japan. We commit the error of saying that Japanese immigrants are more similar to European immigrants than they are to other Oriental immigrants. Certainly we stand on firm ground when we say the United States has more right to discriminate between Japanese and Europeans than between Japanese and their Ori-

ental brothers. So believing and realizing the impossibility of placing all Orientals on the same basis as Europeans, we ask that Japanese settlers be excluded just as we exclude settlers from other Oriental countries. Admit Japanese and we place ourselves in a position where we must either admit immigration from all the Orient, flood the United States, or, frankly and unfairly discriminate against all the Orient in favor of Japan.

When Congress barred from permanent settlement in the United States, all aliens ineligible to citizenship it did more than merely excluding 100 Japanese each year. It laid down a general policy. It harmonized our immigration laws with our naturalization laws. It satisfied twenty year old demands of the Western States; it protected our people. It removed immigration from those topics that might be used for international controversies; it protected our nation.

When we realize that there is no demand for this "same basis" for Japan, when we recognize, secondly, that its adoption would discredit the United States government, when we see how unfair it would be to give Japan a quota and refuse a quota to the other countries in the Orient and when we further realize that the ultimate effect of the plan would be internal disorder and international quarreling—when we realize these things we know there is much to lose and little to gain in the adoption of the plan proposed; we recognize the wisdom and propriety of long standing convictions which were in 1924 written into law, namely that aliens ineligible to citizenship should be excluded from permanent settlement in our country.

First Negative Rebuttal, Charles Schottland  
University of California at Los Angeles

MR. CHAIRMAN, LADIES AND GENTLEMEN: It is always an extremely strong argument in favor of any plan if the proponents of that plan can show that it is in accord with some time-honored American principle. And those in favor of putting the Japanese on the same basis as Europeans, thinking that it would strengthen their case, have hit upon the principle of non-discrimination and have urged a Japanese quota upon this ground. They say the exclusion law is discrimination; the quota would carry out that great American principle of non-discrimination. It is true that the quota proposed by the affirmative does not discriminate against the Japanese. But what about the other Orientals? What about the Chinese, the Hindus, and the rest? The present exclusion law harmonizes with our naturalization laws in excluding these classes. Since our naturalization laws recognize a difference between Europeans and Orientals, then it is not discrimination to have our immigration laws do so also. But it would be discrimination if we picked out one small group of Orientals and placed them upon the same basis as Europeans while the other Orientals were not placed on a similar basis. The negative stands for non-discrimination just as much as the affirmative. We would draw lines where lines really exist; the affirmative would draw lines where lines should not exist. If the affirmative is sincere in its plea for non-discrimination then why does it not argue for the ad-

mission of all Orientals on the same basis as Europeans?

The affirmative would not argue the placing of all Orientals on a quota basis because too many would come in. They say that if we only put the Japanese on a quota it will be practical exclusion since only one hundred will enter annually. The affirmative argues its case on numbers; the negative attacks the quota plan on principles. If the principle of Oriental exclusion is just, if the principle is right, then we should not break down this principle by the admission of even one Japanese. To admit any number of Japanese, no matter how small, would be to break down the principle of Oriental exclusion, to break down the harmonization of our naturalization and immigration laws, and to frankly discriminate against all other Orientals.

Why should we take this step? Because, the affirmative says, it is necessary to insure the friendship of Japan. They tell us that Japan is a great power and the United States should do everything in its power to remain on friendly terms with Japan. In other words the affirmative is trying to frighten us into giving the Japanese a quota. Ladies and Gentlemen, the United States decides its policies upon justice and this country will not discriminate or draw lines of distinction because one power is greater than another. The affirmative wish us to give the Japanese a quota because Japan has a large navy; they do not wish to give the Chinese a quota because the Chinese are not a world power. If the United States were to follow out the plan of the affirmative, the other countries of the world would realize that

the internal policies of the United States can be changed merely by a show of force. In view of Ambassador Hanihara's letter, in view of Japan's actions at the League of Nations, and in view of the fact that exclusion has already been enacted into law, what would happen to our prestige if we were to place the Japanese on the same basis as Europeans at this time? As my colleague has shown, the prestige of the United States would be lowered in the eyes of the rest of the world. No, friends, the United States will never allow its internal policies to be dictated by a foreign power, even though the loss of friendship of that power might be the result.

But have we, as the affirmative asserts, alienated Japan? No, we have not. To-day relations between the two countries are as amicable as ever. Trade between the two is on the increase and as Japan's new ambassador to the United States recently said, "The relations between the two countries were never so friendly as they are to-day." It is true that immediately after the passage of the exclusion law there was protest in Japan against our action. But to-day this protest has died down and relations between United States and Japan are just as satisfactory as they were before 1924.

There is no reason, then to place the Japanese on the same basis as Europeans. There is every reason why we should not do so. To do so would be to bring back the vigorous and active opposition of the Pacific Coast against the Japanese; to do so would be to discriminate against all other Orientals; to do so would be to break down the harmonization between our immigration and

naturalization laws; to do so would be to seriously lower our prestige and self-respect. And so, Ladies and Gentlemen, the negative is opposed to placing the Japanese on the same basis as Europeans.

**Second Negative Rebuttal, Harold D. Kraft**  
**University of California at Los Angeles**

MR. CHAIRMAN, LADIES AND GENTLEMEN: It is very interesting to notice the points most stressed and reiterated by the advocates of a quota basis for Japan.

Invariably they lay heavy emphasis upon the fact that if Japan received a quota only one hundred Japanese could come to the United States every year. This they tell us would be "virtual exclusion," would not harm the United States and would pacify Japan. To that argument we need only reply, that "virtual exclusion" did not work under the "Gentlemen's Agreement" in the past, is working very poorly in Canada to-day, as we see by the daily papers, is psychologically bad, will not satisfy the Pacific Coast peoples, and runs contrary to the advice of students of race problems who uniformly advocate "water-tight" and "iron-clad" exclusion. Furthermore, we cannot admit that their plan insures virtual exclusion. One hundred Japanese added each year to our present Japanese population of approximately 125,000 would aid materially in increasing that number over a period of years. Moreover, if we established them on the same basis as Europeans they will rightfully object to being taken off that same basis, and we would have to keep our immigration on a two

per cent. basis of the 1890 census, or admit a greater number of Japanese. Virtual exclusion being neither a good policy nor being guaranteed by their plan, it is difficult to validate their argument at this point. In addition let me add that when the United States abolished saloons all saloons were abolished. We said, "Saloons are a bad thing, therefore we'll not have any of them." We didn't keep "one hundred." And when we concluded that mass immigration from the Orient in the form of laborers and permanent settlers was a bad thing, we laid down a principle. We said, "Japanese settlers are a bad thing, therefore we'll not have any of them." And we didn't retain a yearly flow of one hundred. If there is logic in amending the Eighteenth Amendment to allow one hundred saloons to operate, then our friends have a case for their privileged one hundred Japanese. It is surely clear to the reasonable man that when you have a good principle it is just as nonsensical to violate it by one hundred as by two hundred or two thousand.

Supporters of this plan also urge it in the name of justice. They say we must be fair with Japan. We must not discriminate against her. The trouble here is, they forget that other Oriental countries exist. What about being fair and non-discriminatory to them? Friends, every argument, every plea, every cry, that may be raised for the admission of Japanese, is an argument, a plea, and a cry, that may be equally well raised for the admission of the other Orientals. We insult other Oriental peoples if we give a quota to Japan alone. We flood our country with thousands of undesirable immigrants

if we place all Orientals on the same basis as Europeans. But when we exclude all Orientals, then there is reason in our discrimination. Supporters of the plan evoke the names of justice, fair play, and non-discrimination. But is it not more just, fairer, and more reasonable to discriminate between Oriental and Occidental immigrants than it is between Japanese and Chinese, members of the same race? The advocates of this plan say that the 1924 law stigmatizes Japan as unequal and brands her people as inferiors. It does no such thing. It does not mention the name of Japan. It merely recognizes that Oriental immigrants are undesirable, that they are so different from our people that when they come here we cannot properly take care of them. Therefore, it lays down the general rule that bars all Oriental settlers from our country. Japan is not excepted from this rule. Surely it is not a stigma on the good name of the Japanese people to classify them with Orientals. They are Orientals. Their immigrants are unquestionably as undesirable as any other Oriental immigrants. The 1924 law calls a spade a spade, an Oriental an Oriental. It makes no exceptions. It makes no unfair discriminations.

In 1882 we excluded Chinese settlers. In the Barred Zone Act of 1917 we extended the exclusion policy to many other Oriental countries. In 1924 we completed the process and included all Oriental countries.

To-day, Japan is ceasing to protest just as China did. To-day, Japanese settlers are no longer coming to America to be subjected to the pin pricks of alien land laws, naturalization laws and the protests of too, too



human Americans. The result is, there will be no more wrangling with Japan over immigration. Our people are satisfied. From both an international and a domestic standpoint Section 13c of the 1924 law is a good provision. May I not reiterate that the ultimate result of this general exclusion policy, as is becoming more and more evident, is order and satisfaction at home and abroad, an ever increasing and unrestricted friendship with all the peoples of the Orient.

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## THE LEAGUE OF NATIONS



# THE LEAGUE OF NATIONS

## *INTERNATIONAL DEBATE OXFORD UNIVERSITY OF ENGLAND vs. KANSAS STATE AGRICULTURAL COLLEGE OF MANHATTAN, KANSAS*

This debate was held at Manhattan, Kansas, October 18th, 1924, and the speeches prepared for publication by the Home Study Service, Extension Division, under direction of H. B. Summers, Coach of Debate, Kansas State Agricultural College.

The question discussed was, "Resolved, that this house upholds America's refusal to enter the League of Nations." The proposition was upheld by the team representing Kansas State, and opposed by the debaters from Oxford University.

Debaters representing Oxford were M. C. Hollis, graduate from Oxford in 1924, and a former president of the Oxford Union; J. D. Woodruff, graduated from Oxford in 1923, and also a former president of the Oxford Union; and M. C. MacDonald, graduate from Oxford in 1923, son of Prime Minister Ramsey MacDonald of Great Britain, and labor candidate for a seat in Parliament in the election of 1923 and 1924. Mr. Hollis was a member of the Oxford debate team which came to this country in 1922; while Mr. Woodruff was a member of that which debated several Eastern universities in 1923.

Representing Kansas State were Kingsley W. Given, of Chicago, a member of the junior class in the division of General Science, and former interstate orator representing Park College, Parkville, Missouri; James F. Price, of Manhattan, a member of the sophomore class in the division of General Science, and former intercollegiate debater at Swarthmore College, of Swarthmore, Pennsylvania; and Robert E. Hedberg, of Oklahoma City, member of the sophomore class in the division of General Science, and former intercollegiate debater at Park College, of Parkville, Missouri.

The debate was one of about thirty in which the Oxford team participated with representative schools in the United States and Canada. Several questions were used by the Oxford men in their various debates, particularly those of the American policy of Prohibition, American entry into the League of Nations, and the French policy since the Armistice. The debate between Kansas State and Oxford was arranged only six days before the date when it was held; the Kansas debaters were consequently placed at some disadvantage in being forced to make their entire preparation in less than a week.

An audience of more than sixteen hundred persons heard the debate. The decision was left to a vote of the audience. Of the sixteen hundred present, only six hundred twenty-nine cast ballots indicating a change in attitude as a result of the debate; in deciding the argument, therefore, only six hundred and twenty-nine votes were counted.

In taking the audience vote, it was not primarily desired to get a pro-League and anti-League division at the close of the debate. Instead, the ballot was designed in an attempt to secure an expression of the change of view produced in the audience as a result of the discussion. Each member of the audience voting was asked to check one of four statements—the one most accurately indicating his position after hearing the debate. The statements follow:

"1. My general attitude has been favorable to the League, and has been strengthened by the evening's discussion.

"2. My general attitude has been favorable to the League, but the discussion has lessened my desire for American entrance.

"3. My general attitude has been in opposition to the League, but the discussion has lessened my opposition.

"4. My general attitude has been in opposition to the League, and the discussion has strengthened my opposition."

Of the six hundred twenty-nine persons voting, one hundred eighteen checked the first statement given above; one hundred seventy-one checked the second statement; sixty-two checked the third statement; and two hundred seventy-eight checked the fourth. Consequently, the result of the ballot would indicate that the audience before the debate stood two hundred eighty-nine for the League, and three hundred forty against: The result of the debate was to influence one hundred eighty to a position more



favorable to the League, while four hundred forty-nine were influenced to a position more opposed to the League than at the beginning of the argument. Since the Kansas State debaters opposed the League in the discussion the audience vote may be considered favorable to the Kansans by a division of four hundred forty-nine to one hundred eighty.

The Oxford debaters made use of a very informal type of speech, which was at the same time very direct and effective. Of course no memorized speeches were used; in fact, the Oxonians go to the other extreme so completely that there is not even a division of points among the three speakers composing the team before the debate begins. No effort was made at consecutive argument; no attempt to secure team-work; each speaker presented whatever argument seemed good to him without consideration for the attitude taken by his predecessors. There was a strong appeal to the sympathy and good nature of the audience; humor, judicious flattery, sparkling wit, pointed satire and even mild ridicule are weapons of which the English speakers are masters, and which were used to excellent advantage by each of the three speakers who represented Oxford in the debate. The interest of the audience was held throughout; laughter and applause were evoked by the English far more frequently than by the Kansans.

The speaking style of the Kansas representatives was more nearly that characteristic of American debaters. No effort was made to meet the visitors on their own ground, and with their own tactics. It is doubtful whether any American team could be successful in such an attempt; American debaters have been trained along other lines, for the most part. At the same time, the Kansans attempted to depart from the traditional formalism which in the past, at least, has characterized American debating. While the constructive case was prepared before the debate as thoroughly as the short time permitted, the Kansas debaters used that case only as a basis about which to build speeches largely extemporaneous. The Americans were probably smoother speakers than were the English; however, they lacked the close "contact" with the audience, the ability to play upon the feelings of the audience, which is the strongest asset of the Oxford speakers. The Americans relied on presentation of facts rather than upon wit, and upon appeal to intelligence rather than to feelings; with this particular audience, the American style was successful. It is to be questioned, however, whether the same would

be true of an audience wholly free from prejudice both with respect to the teams and with respect to the question.

A better idea of the debate may be had from the speeches, a stenographic report of which may be found on the following pages.

First Affirmative, Kingsley W. Given  
Kansas State Agricultural College

MR. CHAIRMAN, OUR FRIENDS FROM ENGLAND, LADIES AND GENTLEMEN: We most heartily welcome to the Kansas State Agricultural College, here in the very heart of America, our visitors from across the Atlantic. It is indeed a privilege for us to have them with us, to discuss from this platform one of America's most important international questions. The men who have for the past four years come each fall from Oxford University to discuss before college audiences in various sections of the United States the problems which concern the leading English-speaking nations of the world, are having no small part in bringing Britain and America together in a firm and lasting friendship. We welcome our friends from Oxford; and we hope that we shall have the privilege of entertaining them again, upon the occasion of their future visits to the United States.

Upon the subject of discussion this evening, America's refusal to enter the League of Nations, the gentlemen from England hold views somewhat at variance from our own. We look upon the League of Nations as an organization primarily affecting Europe. European conditions, European affairs, have been the objects of League consideration in the past; and will be in the

future. Americans are less vitally concerned in the affairs of Europe than are our friends from Great Britain. America views European affairs from across the broad Atlantic; England must view them from across the Channel. It is but natural that the English point of view on that essentially European institution, the League of Nations, must be somewhat different from our own.

When the League of Nations was brought into being, Britain was among the first to enter. The United States alone of the major powers of the world, held back. Not because of any inherent opposition to the idea of world organization; a brotherhood of nations has been and is one of our outstanding national ideals. Not because of any lack of a strong desire for peace; America wants peace for herself and for all the world no less than any other nation. Not because of any lack of idealism; America's ideals are certainly as high and fine as may be found with any people of the whole world. No such motives were responsible for our holding aloof. America failed to join the League at the time of its inception, and refuses to enter the organization to-day, because we had and still have every reason to believe that the fine phases of the covenant did not represent the real spirit of the participating members; because we learned that the nations most active in the League were entering primarily out of a desire to gain some advantage by so doing; because we knew that the nations which to-day dominate the League of Nations have not adopted any real spirit of international brotherhood and

good will, but are governed by the same selfish, intriguing, nationalistic spirit that controlled their acts before the League was brought into being.

For centuries past, the people of the civilized world have been divided into national groups. Each group built up within itself a moral code that held as right and good, every action of whatever nature that promoted the welfare and interests of the nation. The welfare of others was secondary, if indeed it was considered at all. So the morality of nations was no morality at all, when judged by the standards of individuals. Nations expanded their territories by conquest; nations entered into solemn treaties, and broke them as soon as it was to their advantage to do so; nations practiced fraud, deceit, trickery, every form of deception in their dealings with one another. America was no exception; nor was that nation which our friends from Oxford represent.

But when the proposal for a League of Nations came, the people of America expected a changed attitude from the nations of the world. They hoped that the plan for international brotherhood would be met by a general renunciation of the selfish nationalism of the past. But their hopes proved vain. Nations came to Versailles to pursue the same tactics which had characterized their actions in the past; to bend every effort to secure some national advantage from the organization being created. The great powers refused to enter unless the plan to be followed gave them control of the organization. France demanded from the members of the League, a military barrier against Germany. Italy demanded Austrian ter-

ritory. Japan bent every effort to maintain and solidify her hold on Eastern Asia. And even Britain insisted on seats in the assembly for each of her dominions; insisted on the creation of a system of mandates which would greatly enlarge the British empire; insisted that no provision should be included in the covenant which would in the least endanger British control over the seas. Every nation save America came to the conference at Versailles demanding some concession, some advantage, as the price of entrance into the League.

America, disillusioned by the attitude of the nations, lost faith in the League. Instead of a brotherhood of nations, ruled by a spirit of peace and international goodwill, she saw the League an organization of nations as greedy, as selfish, as greatly inspired by nationalistic ambition as before. And America, realizing the futility of the organization as a means of bringing about permanent peace, refused to enter the League.

Events which have followed the formation of the League of Nations have more than justified America's distrust of the sincerity of the nations which form the organization. The League was in principle an agency of peace; a means of maintaining international justice. If the nations which entered the League had really been sincere, some evidence of sincerity should have been found in their actions since the League was organized. They would have made every effort to maintain international peace and good-feelings; they would have carried out to the letter the terms of the League covenant to which they had pledged their honor. But what has happened? In the five years since the League came into

existence, the idealism which it represents has been forgotten; the covenant has been violated again and again by its members; its articles have become mere scraps of paper.

Let us consider some of the instances in which the lack of good faith of League members has made itself known.

In the first place, Article Eight of the covenant pledges the members of the League to take immediate steps toward the reduction of armaments. Five years have passed; to-day, the stronger nations of Europe are more heavily armed than they were in 1914. France has increased her standing army and organized reserve until it totals five million men; Italy has an organized force of three and a half million; Poland, Czechoslovakia, Jugo-Slavia, Spain, and Roumania have more than a million fighting men each. Certainly, the nations have ignored their pledge to bring about disarmament.

Again, Article Ten pledges the members of the League to refrain from territorial aggression against other states, and to protect the territory of nations whose territory was encroached upon. But how have the nations carried out their pledge? Since the summer of 1920, there have been in Europe alone, no less than eight cases of territorial aggression. In the summer of 1920, the Poles invaded Russia; in October 1920, the Poles seized Vilna, historic capital of Lithuania; a year later, Serbian forces from Jugo-Slavia invaded Albania; in March, 1922, Italy seized Fiume for the second time; in September, 1922, Turkish armies drove

the Greeks out of Thrace, and destroyed the city of Smyrna; in January, 1923, French troops occupied the Ruhr valley in Germany; at the same time Lithuanian forces seized the German city Memel, and annexed it to Lithuania; and finally, in August, 1923, Italy bombarded and seized the island of Corfu, the property of Greece. Here we have eight cases of territorial violation, every one in direct opposition to the pledge of the League members in Article Ten and in seven cases out of eight, the violation was committed by a member of the League; a state which had solemnly pledged itself to respect the territory of other nations. What stronger evidence of bad faith on the part of the nations which to-day control the League could be demanded?

But that is not all. In the invasions themselves, only a small group of nations were guilty. But every nation adhering to the League, every nation which signed the covenant, rendered itself equally guilty of abandoning the principles of the League and the pledges of the League covenant when they took no steps to prevent these violations. Article Ten provides that the nations adhering to the League, pledge themselves to protect other nations from invasion. But did the nations protect Russia from Polish invasion? Did they defend Vilna, when the Poles seized that city from Lithuania? Did they come to the assistance of Albania, when that nation was invaded by Jugo-Slavia? Did they force Italy to surrender Fiume? Did they punish the Turks for their war against the Greeks? Did they prevent France from occupying the Ruhr? Did they require Lithuania to surrender Memel, when that city was

taken from Germany? Did they punish Italy for the unprovoked Italian attack on Corfu? Did a single nation even make an effort to prevent a single one of these illegal assaults on unprotected territory? Not in a single instance. Nor did the Council of the League take action; though the covenant specifically obligates its members to take action in the event of violation of the covenant. The nations, large and small, disregarded their pledges in permitting the repeated violations of the covenant without even an attempt to protect the injured sates.

But let us go on. Article Twelve provides that when a quarrel arises, it shall be submitted to the council for peaceful settlement. Of the eleven conspicuous quarrels which have arisen in Europe since 1920, eleven likely to lead to war, three have been submitted to the Council; eight have resulted in war or armed aggression. Again the bad faith of nations composing the League is clearly demonstrated.

Article Sixteen provides that the League shall enforce an economic boycott against any nation which commits an act of aggression against another. But in the eight cases of armed invasion which I have already referred to, the economic boycott was not used in a single instance, nor was any step taken toward its use by any member of the League or by the League council itself. Again the failure to live up to the principles of the League in good faith is established beyond contradiction.

I could go on, and mention the violations of Article Eighteen providing that nations will not enter into



secret agreements with one another; or Article Seventeen which provides for inviting non-members to use the machinery of the League to settle disputes; of Article Thirteen which provides that awards of the League will be carried out in good faith; of Article Twenty-two which provides that mandates of the first class shall be awarded in accord with the wishes of the inhabitants of the mandatory state. But time will not permit. Enough evidence has already been presented to show beyond a possibility of doubt that many if not all of the nations which subscribed to the League covenant did not do so in good faith; that the spirit of international cooperation and good-will upon which must rest any success a League of Nations might attain, is wholly lacking; that the nations of Europe are still conducting their affairs on the same basis of national selfishness, trickery, and intrigue.

A League of Nations based upon an honest desire for a better international understanding, upon a genuine will for world peace, upon a sincere willingness to surrender national advantage for the welfare of the whole world, would be a wonderful thing. In such a league, we of the affirmative sincerely believe. But the existing League of Nations, founded on the same chauvinistic and selfish attitude on the part of nations which has characterized Europe for centuries past; a league whose members have not entered in good faith; a league which is regarded simply as a means of securing some advantage over other nations, such a league is an entirely different thing from the league of idealism for which America hoped; and we of the affirmative believe that

we speak for the American people when we maintain that America should not enter it.

Second Affirmative, James F. Price  
Kansas State Agricultural College

MR. CHAIRMAN, GENTLEMEN OF THE NEGATIVE, LADIES AND GENTLEMEN: The United States is often criticized for her failure to join the League; and we ourselves are sometimes left in momentary doubt as to the wisdom of our policy, when the case for the League has been so ably presented as it has been by our friend who has just left the floor.

But he says that the Covenant is not perfect, and that it can be changed and revised. Our fight is not against the Covenant, but the fact that the nations do not live up to the Covenant as it is. I rather believe that our friend is appealing to the emotions of the audience, while we are going to try to give you the facts as they are, and let you draw your own conclusions.

Our argument of the affirmative, thus far, has been to the effect that the nations of Europe did not enter the League in good faith, or with any intention of living up to the ideals of the Covenant of the League. We have called to your attention repeated violations of the Covenant, unmistakable evidence of a lack of peaceable intent on the part of those nations that compose the League.

We have shown that the European members of the League to-day do not direct their foreign policy from the standpoint of a world will for peace, but rather are

seeking world conquest, selfish expansion and national interests at the expense of their neighbors.

Scarcely had the nations affixed their signatures to the covenant of the League of Nations when we find a certain group joining together in an attempt to secure control over the League machinery.

Frank H. Simonds, probably America's keenest observer of European political affairs, refers in the *Review of Reviews* for February, 1924, to a series of interlocking alliances which bind together no less than nine European members of the League. According to Mr. Simonds, France has since the establishment of the League, concluded formal military alliance with Belgium, Poland, Czecho-Slovakia, Jugo-Slavia, and Roumania. Italy has entered into alliances of more or less formal nature with Spain, Roumania and Jugo-Slavia; and has a treaty of guarantee with Albania. Spain, the ally of Italy, is also allied with Brazil. Other treaties of alliance bind together Czecho-Slovakia, Jugo-Slavia and Roumania; also Roumania and Poland are allied.

The existence of these alliances is confirmed by Sir Philip Gibbs, the noted British war correspondent, in his series of articles in the January issues of the *Saturday Evening Post*.

So we find that no less than ten powerful members of the League are bound together in a series of interlocking alliances, in which the position of leadership is held by France.

In addition, many other states, not directly or openly allied by treaty, must in reality be included in the coalition. Finland, created by the powers and financed by

French gold; Lithuania, which has been given heavy credits by France; Turkey, not a member of the League but a traditional ally of France; and even Japan, which, while not a formal member of the group, still holds militaristic views that correspond exactly with those of the allied nations, and has from the first upheld French policy in all League affairs. All these nations must be considered as being at least closely involved in the alliance.

This gives a total of no less than fourteen nations, some bound together by alliances, all pursuing similar policies, all working together in close harmony for their own selfish interests, under the aggressive leadership of France.

It is true that these nations may occasionally differ among themselves; but in every case of any importance which involves one or more members of the alliance as against a state not a member of the coalition the allied nations have pursued a policy of complete unity of action. Consequently it may be safely asserted that, in spite of minor disagreements, the nations composing the inner alliance act as a unit in their dealings within the League.

Now it is an obvious fact that these allied nations control the actions of the League of Nations. The Covenant of the League provides for two governing agencies for that organization—the Assembly and the Council. The Assembly is the larger organization. It meets once each year, and includes representatives from each member of the League. It has very limited powers, chiefly that of debating and recommending, and, save

for the election of new members of the Council, the Assembly can do absolutely nothing without the concurrence of the Council. This latter body is the real power of the League of Nations. In it are vested powers legislative, executive and judicial. It determines the policies of the League, it makes all decisions of the League; it controls the military forces of the League. In the words of Arthur Sweetser, British member of the Secretariat, "The Council is a small body of ten members, focussing the moral power of the world about one small table." The council is the actual governing body of the League.

Now this Council is controlled by the inter-allied powers. It consists of ten members, of which four are the permanent representatives of the four great powers—France, Britain, Italy, and Japan—and six are non-permanent, elected by the Assembly. Of the four great powers, three are involved in the coalition—Great Britain alone may be regarded as entirely free from French influence. The six non-permanent seats on the Council are to-day held by Belgium, Czecho-Slovakia, Spain, and Brazil, (all members of the interlocking alliance) and Sweden and Uruguay, independent states. Thus seven of the ten seats of the Council are to-day held by members of the interlocking alliance within the League.

Now we understand that the Council cannot act save by the unanimous vote of its members; but weak, independent members of the Council, such as Uruguay and Sweden, cannot hope to hold out against the combined moral force of the powerful members of the alli-

ance. Greece and China, when members of the Council, refused to co-operate; they were replaced by nations who could be counted on to offer no resistance to the allied plans. Great Britain herself, the only independent nation of consequence holding a seat in the Council, has not once seen fit to resist these Allied Powers in any matter of importance. Consequently, the policies of the Council have invariably been determined by the members of the interlocking alliance, and the Council has, from the first, been entirely dominated by the allied group.

Now, controlling the Council, the real governing body of the League of Nations, the inter-allied powers unquestionably govern the League. The council dominated by the alliance acts for the league exactly as the allied nations direct. The League to-day is governed absolutely by the powerful members of the interlocking alliance.

Moreover, the members of this alliance are making use of the League to advance their own selfish interests. Consider, for instance, the matter of territorial aggressions. Your attention has been called by the first speaker for the affirmative, to the eight outstanding cases of territorial aggression, invasion and war—the Polish invasion of Russia; the Serbian occupation of Albania; the Italian seizure of Fiume; the Polish seizure of Vilna; the Turkish war in Greece; the French occupation of the Ruhr; the Lithuanian seizure of Memel; and finally the Italian bombardment of Corfu.

It is interesting to note that of the eight cases of invasion six were committed by definite members of the

inter-alliance which controls the League, Italy having been twice the aggressor, Poland twice and France and Jugo-Slavia once each. In the seventh case of aggression, the offending state was Lithuania, not a direct member of the alliance, but bound to France by debts. And in the eighth case of aggression, Turkey, the offending state, was not a formal member of the coalition but was the traditional ally of France. So in every one of the eight outstanding cases of covenant violation, the aggressor state was directly or indirectly involved in the alliance. Now did the League fulfill its obligation to prevent the aggression, and punish the invading states? Not in a single instance. The Council, controlled by the inner alliance, refused to take action against members of that alliance in any one of the eight cases of aggression. The League refused to act, for by this refusal, the interests of the inter-allied powers within the League were advanced.

Now let us consider those cases in which the League has acted. In every single case of League action, the same thing is true—the action in some manner or other directly benefited the great powers which control the League, or injured the foes of these powers. In the Aaland Island settlement, the League awarded the disputed islands to Finland as against the claims of Sweden. It is interesting to note that Sweden was not connected with any of the great powers of the alliance in any way—while Finland was created by the powers, and has been from the beginning financed by French capital. Again, in the dispute over Vilna, involving Poland and Lithuania, Poland, a member of the inner

alliance, was awarded the city, though it was the ancient capital of Lithuania, at that time a non-participant in the alliance. Lithuania, however, was later involved in the group by means of a loan from the French government.

In the third case of League adjustment, Upper Silesia was awarded to Poland, a member of the inner alliance, though a plebiscite was actually taken by the League, and resulted in an overwhelming vote in favor of Germany. In the fourth instance, that of the Greek-Albanian boundary dispute, Northern Epirus was awarded to Albania, another member of the interlocking alliance, though the inhabitants are Greek in both language and sentiment. Again, the Council permitted and ratified the seizure by Lithuania of the German city of Memel, Lithuania at that time being bound up in the interests of the alliance by a French loan. Again, when the Poles invaded Russia, the Council was urged to interfere; but refused to take action—Poland was a member of the alliance.

And finally, in the Corfu incident, Italy, the aggressor state, but one of the members of the inner alliance, received practically every demand made against Greece; and in spite of the fact that it was Italy, not Greece, which had violated the League Covenant, the League confirmed the settlement. In the light of these facts, there can be no doubt whatever but that the League has always acted when it has been to the interests of the inner alliance of powers to act—but has remained passive when such inaction was desired by the powers.



Ladies and Gentlemen, in the light of these facts, there can certainly be no question but that the League of Nations is to-day controlled by a combination of countries, who have not accepted in the slightest degree the League's principles of idealism, but are governed by selfishness, greed and nationalistic ambition; and who have repeatedly used the League machinery to aid in the attainment of their own selfish desires. Such a League, Ladies and Gentlemen, the United States should not enter.

Third Affirmative, Robert E. Hedberg  
Kansas State Agricultural College

GENTLEMEN OF THE NEGATIVE, AND LADIES AND GENTLEMEN: So far in the debate this evening, the gentlemen from Oxford have done a great deal of jesting at the expense of our arguments against the League of Nations. We realize that America's entrance into the League is not a matter of tremendous importance to the rest of the world; but to us in America, it involves our future welfare as one of the leading powers of the world; and while our arguments seem to merit only humor from the gentlemen of the negative, we are presenting and will continue to present the facts which we have collected, which we believe will portray the League in its true light.

Now, Ladies and Gentlemen, let us consider, just for a few moments, some of the arguments which have been advanced by the gentlemen from Oxford. The first speaker, Mr. Hollis, told you something of Article Five

of the Covenant, which provides that in order to take any action, the League must have the unanimous assent of all its members. Now we are not basing our argument primarily on the Covenant and its weaknesses; we are basing our argument on the lack of good faith of the nations adhering to the League; but at the same time, this very clause in the League Covenant which the gentleman has mentioned is a striking evidence of the League's inability to do anything that is contrary to the interests of the members of this inner alliance which we have mentioned. If the alliance can get that unanimity which is necessary for the League to take action, then the influence of the alliance is far too strong within the League for us to safely enter it; while on the other hand the necessity for unanimity on the part of the League before action can be taken would make it absolutely impossible for the League to take action against this inner alliance for its violations of the spirit which the League is supposed at least, to represent.

The gentlemen have stated that the United States is selfish, because it has not joined the League. Ladies and Gentlemen, I believe that you will approve of my statements when I say that the United States has not been guilty of selfishness in international affairs; but has done her part on every occasion and in every action that helped promote the betterment of the world. Perhaps, as the gentlemen infer, we stayed out of the League in 1919 for reasons that were wholly political; but in the light of the present-day development of the League, it seems quite evident that we took the course that was best; and I believe that you will agree with me that we

are glad that to-day we stand outside the League, and not inside.

The gentlemen have questioned the accuracy of our arguments with respect to the Serbian invasion of Albania, stating that the mere threat of League action brought about the immediate evacuation of Albanian territory by the Serbs. Possibly the gentlemen are right; but permit me to call to your attention the account of the same incident given in the League of Nations Handbook, issued by the League of Nations Non-Partisan Association last year. The Association is strongly in favor of American entrance into the League, and can hardly be expected to represent the actions of the League in a light any more unfavorable than necessary. But their publication states that the Prime Minister of Albania informed the League on March 5th, 1921, that Serbian Troops had occupied Albanian territory, and asked for League action. None was forthcoming. So on April 29th, Albania again notified the League that their territory was occupied by Serbian troops, and requested the League to take some action. Again, the League ignored the plea, not even replying. So for the third time, on June 15th, Albania again appealed to the League. This time the League Council notified Albania that they considered it inadvisable for the League to consider the case, but that the Council of Ambassadors might act upon it. Meanwhile, the Serbian troops were still occupying the Albanian territory. So after waiting for three months longer, Albania appealed to the Assembly of the League, upon its meeting in September. Remember, this was six months after the affair was first re-

ported to the League, and the fourth time that the League had been notified. So this time, the League acted. The Assembly requested the Council to appoint a Commission; the Council appointed the Commission, on October 6th—and the following April, the commission made its report—thirteen months after Albania had first complained to the League. Ladies and Gentlemen, these are the facts in the case; instead of the Serbian troops being withdrawn the next day, as the gentleman from Oxford has stated, they remained in Albanian territory for more than a year. And my statement is based on pro-League authority, hardly capable of any accusation of prejudice against the League.

Now, from the arguments so far presented, it is evident that the League of Nations is not the idealistic organization that it is represented as being. The gentlemen from Oxford have not for a minute contended that the nations of Europe which compose and control the League are not selfish and nationalistic—they admit by inference at least, the truth of our contentions. We have told you how the nations are banded together in alliances for the realization of their selfish ends; that the League is hardly an organization of nations that are seeking to benefit the world, but a group of selfish, greedy powers. And the gentlemen have not dared to state that the nations are not selfish.

Should the United States enter the League, it is clear that we would be obliged to surrender a considerable portion of our national sovereignty; that we would be compelled to accept the dictation of a group that we know to be controlled by an interlocking alliance of

selfish nations that would discriminate against America if justice to this nation conflicted with their own selfish interests. Let us consider just how great would be this surrender of American sovereignty, should America enter the League.

Five years ago, when the League was first established, a permanent commission on disarmament was formed for the purpose of outlining a plan for the general reduction of arms. At the fifth assembly of the League on September 24, of this year, this commission submitted a report in the form of a protocol, the purpose of which was to employ the element of compulsory arbitration in all international controversies. Article Three of this protocol declares that the signators are committed to the compulsory arbitration clause of the World Court. Either party may submit the dispute and compel the other to arbitrate. Once an award is made it is binding on both parties and in case it is not accepted the offending state is declared an aggressor and by Article Seven "sanctions provided for by the Covenant are applicable against it." Article Sixteen of the Covenant defines these sanctions as "the prohibition of all intercourse between the nationals of the League and the nationals of the Covenant-breaking state." Furthermore, "that it shall be the duty of the Council to recommend what military, naval, or air force, the members of the League shall contribute toward the enforcement of these sanctions."

Now, at the very time the League was considering the adoption of this protocol, Japanese feeling was at its height toward America's new immigration bill. Seeing

her opportunity to incorporate into the protocol a measure that would possibly defeat America's purpose, Japan proposed an amendment to Article Eight. This measure states that "should one of the parties contend that the dispute arises out of a matter which by International Law is solely within the jurisdiction of the party, the arbitrators shall take the advice of the Permanent Court of International Justice." Moreover, "that the opinion of the court shall be binding upon the arbitrators." This simply means that any nation that could convince the Council that her grievance against another nation was justified, could force the offending nation to accept any terms the Court stipulated.

The amendment and the protocol were signed by forty-seven of the fifty-four League members, a majority that includes every one of the members of the alliances that control the League. As soon as the protocol is ratified it will be applicable to all members.

It naturally follows then, that any nation participating in the League to-day, must surrender to the League, not only those questions arising over international affairs, but the control of domestic questions as well. In other words, the proposed protocol will give to a body of scheming selfish nations power to override the provisions of international law itself.

Now let us consider the position of America, were she to enter the League, assume its responsibilities and support its protocol. Probably our most important current consideration is that raised by the provision of the Johnson Immigration Bill which excludes the Japanese from the United States. When this measure was dis-

cussed in Congress and finally passed, Japanese feeling was raised to a white heat against us as we have already stated. Japanese cities were alive with posters of denunciation. Oriental merchants boycotted American goods. Some sections even prohibited the reading of American newspapers. This feeling was shared by the Japanese government, which, while not daring to make a direct objection, carried the matter to the League in the form of their amendment. Now, if America entered the League, this amendment would make it possible for the Court to review her domestic affairs and at the suggestion of Japan, pass judgment upon her immigration policy. Now with European states none too friendly as a result of their heavy debts to the United States, and especially with the nations of Europe closely joined to Japan in this interlocking alliance, we could hardly hope for the Council of the League to find any justification in our policy; and America would be confronted by the choice of being thrown open to a great influx of Oriental immigration, or going to war against the entire League, including every other nation in the world.

Not only would the League have power to determine our immigration policy, but its jurisdiction would extend over other domestic questions as well. The League could easily decide that our tariff system needed revision and take action that would seriously affect American Industry. International shipping could be controlled by the League if any nation wished to bring the matter up for consideration. Alien rights could be dictated and our entire domestic regulations would no longer be ours to determine.

Now with it entirely possible for the League to have such an enormous power over American domestic affairs, we must remember that the Council is controlled by selfish, ambitious alliances and that the powers that control the Council rule the League. We can only conclude that we can hope for little understanding or approval from Europe. Yet the gentlemen from England would have us enter a League which they themselves do not deny to be composed of selfish, scheming nations, and surrender our sovereignty to such an organization.

We would naturally suppose that the gentlemen of the opposition would possibly represent unofficially, the attitude of Great Britain, even as we believe we are expressing the general sentiment of the United States. It is with some surprise that we read in the current issue of the *Review of Reviews* that "the address of the British Premier at the opening session of the fifth Assembly of the League is especially significant in that it discloses with crystal-like accuracy, the break between the British and the Continental point of view." This article was written by Frank H. Simonds, who goes on to say, "Premier MacDonald's speech is little more than a restatement of the very reasons for which the American people refused to enter the League in 1919, a vigorous objection to the use of the military sanctions provided for in the protocol sanctions which must lead to war. Apparently Britain and America stand together in their views of the League of Nations. Now if this is the attitude of Great Britain, we can hardly see how the gentlemen of the opposition can advocate American



entrance into a League that their own country is on the verge of denouncing.

In the face of Premier MacDonald's denunciation of the League's present policy, can the gentlemen from England possibly contend that America's place is in the League? Can they show us wherein Britain, for centuries the strongest nation in the world, has been able to turn the League from its unreasonable purpose? Can the gentleman convince us that the states of Europe have departed from their paths of greed and nationalism? Can they explain any worthy objective of the alliances within the League? Can they deny the existence of these alliances? Can they justify the element of force in the protocol of the attitude of Japan in amending it? If the protocol is defeated is there even then any hope for any different course from that followed for the last five years? Do the gentlemen dare advocate the entrance of America into a League that their own country cannot approve of?

Ladies and Gentlemen, there is a great need to-day for some organization that can answer the world cry for peace but the League of Nations is not that organization. We have offered it to you we believe, in its true light. We have traced from the very beginning, the elements of greed and nationalism that dominate it. We have pointed out inner alliances whose existence cannot be denied and we have enumerated forty-seven instances of the League deciding in their favor. We have explained the proposed protocol which would take from us even the right to define our own domestic affairs and would involve a surrender of our national sovereignty.

If America must unite with someone for world peace, we had better consider some super-alliance with Great Britain, a kindred nation which can no more approve of the League's policies than can we. But certainly these facts are sufficient to convince you that this house should approve America's refusal to join the League of Nations.

**First Affirmative Rebuttal, Robert E. Hedberg**  
**Kansas State Agricultural College**

During the course of the debate, our opponents have very frequently accused us of making statements that we did not make. For instance, they stated that we objected to England and her dominions having six votes in the League assembly. Our argument was not in opposition to the British possessions having six votes—it was simply that England would not enter unless that concession were made her. Again, the gentlemen persist in answering objections that we are supposed to have made to the Covenant of the League. Our argument is not against the Covenant, but against the things that the League has done and those it has failed to do; and against the spirit which is controlling the nations which compose and control the League.

Now, the gentlemen tell us that many authorities on international affairs, say that America could enter the League without any surrender of sovereignty. They quote Mr. Taft to that effect. But the gentlemen are basing their statement upon the Covenant of the League alone; they are not considering the proposed protocol

which was signed only last month by forty-eight members of the League—the protocol which would give the League jurisdiction over American domestic policies, should we enter the organization. Now, what is sovereignty—would entrance into the League really be possible without surrender of sovereignty? Arthur Sweetser, British member of the Secretariat of the League, says that the “control of armament and munitions is one of the essential attributes of sovereignty.” Our late President, Woodrow Wilson, states that “joining the League is a recognition and surrender of self-sovereignty”; and goes on to say, concerning the League, “It abrogates the Monroe Doctrine. You have established a governmental body, and are bound to abide by its decisions.” Can the gentlemen still tell us that entrance into the League does not involve a surrender of sovereignty?

The gentlemen from Oxford told you in their concluding speech that the nations of Europe are ready to co-operate for world peace. Now, Ladies and Gentlemen, we offer you in refutation of that statement, the actions of these same nations for the last five years. Poland, Italy, France, and the rest of them have acted on principles that are militaristic. They have built up powerful armies. They have banded together in alliances. They have violated the League covenant repeatedly, when it was to their interest to do so. These nations are not for peace, but for self-government; they wish to realize their selfish aims through their control of the League of Nations—the same League which the gentlemen ask us to join, though they are able to offer

us no guarantee of good faith on the part of the nations of Europe when they ask us to do so.

The gentlemen from Oxford have referred to the London Conference, and to the fine spirit which characterized the representatives of the nations at that conference. Gentlemen, the London Conference was called to prepare and agree upon some plan for the re-establishment of German financial stability. It was General Dawes who originated this plan. It was an American mind which brought this council together; and now the League of Nations says, "Yes, America, we will follow your leadership." That is an example of American influence outside of the League of Nations. But had she been a member of the League, her influence would have been very much less—she would either have been aligned with the alliance controlling the league, and forced to follow its policies, or would have been opposed to the alliance, and consequently powerless.

There has been mention, also, of the economic and social agencies of the League—the crusade against narcotics, and the work against the international white slave traffic. But gentlemen, is this work really the work of the League? Hardly; these agencies were in existence, and working with all effectiveness years and years before the League was ever dreamed of. The League simply took them over; permitted the organizations to function as before; and assumes the credit. Do you know that the League of Nations takes credit to-day, for the work of the Red Cross? The League can hardly claim responsibility for the fine work of these organizations—America, a non-member of the League, is an

active participant in every one of them, and is doing as much as any other nation in furthering the work of these commissions for which the League is assuming the credit.

The gentlemen of the opposition assure us that the League is not wholly lifeless—that in a number of cases, it has taken action; that it settled the dispute between Finland and Sweden; that it averted war in Upper Silesia; that it settled the boundary dispute between Albania and Greece; that it acted in the incident of Corfu. But, Ladies and Gentlemen, the advocates of the League seem strongly at a loss for instances of success on the part of the League; for every one of the instances they have cited have been cases which we had already called to your attention as establishing the power and control of the interlocking alliance over the League; for in every one of these cases which the gentlemen mention, the decision and action of the League was directly in behalf of the interests of one or more of the members of the interlocking alliance. And the gentlemen from England have not ventured to contradict our statements to that effect; by their silence they have indeed admitted it.

The gentlemen from Oxford have very cleverly appealed to your sentiment; they have told you that if the League has been a failure it is because of America's failure to enter it; if the nations that compose the League are governed by selfish ambition, the cause is America's selfishness in remaining without; in other words, they blame the entire condition of Europe to-day upon America. Now, Ladies and Gentlemen, I feel rea-

sonably certain that the nations of Europe are greedy, and selfish, and nationalistic, without any help or encouragement whatever from the United States; and I believe that you will agree with me that the cause of their selfishness is not America's refusal to enter, but the traditional nationalism, greed and self-seeking policies of Europe, which existed long before the League came into existence, which exist to-day, and which would continue to exist even were the United States so unwise as to join the League.

Now, Ladies and Gentlemen, throughout this entire debate, we have endeavored to impress upon you the fact that the nations which entered the League did not, upon so doing, lay aside their desire for national advancement—their selfishness and greed. The gentlemen from England make no attempt to deny this fact; they admit again and again that selfishness dominates Europe. We have offered for your consideration the network of alliances established since the formation of the League, binding together practically all of the powerful nations of Europe, and a few from other parts of the world—and the gentlemen from Oxford have not ventured to deny the existence of these alliances. We have pointed out the actions of the League, and the League's failures to act; and have called to your attention the fact that every decision of the League has benefited one or more of these allied nations; every action of the League seems to have been in their interests; every failure to act on the part of the League was a failure which benefited one of these allied nations. The gentlemen from England have again made no effort to

deny the implication that the League is controlled by members of the alliance; that it acts in the interests of this alliance. We have pointed out the protocol, signed by forty-eight League members only last month; no reference whatever has been made to it by the negative, though they have had ample time to do so. And finally, in my own constructive speech, I specifically called attention to the denunciation of the very idea contained in this protocol—that of the use of military sanctions—by none other than Premier MacDonald of Great Britain, himself; a denunciation which puts Great Britain officially in virtually the same position that we are in here in the United States. But the gentlemen from Oxford have studiously avoided any mention whatever of this attitude.

Ladies and Gentlemen, our friends from England dare not deny the spirit of selfishness which dominates Europe; the existence of the inner alliance, the control of the League by this alliance; the repeated actions of the League in the interests of this alliance; the surrender of sovereignty that would be entailed by American entrance into the League. The facts speak for themselves. America dare not jeopardize her future by entering the League of Nations.

First Negative, M. C. Hollis  
Oxford University

MR. CHAIRMAN, LADIES AND GENTLEMEN: After the splendid game <sup>1</sup> I had the great pleasure to witness this

<sup>1</sup> Referring to football game between Kansas University and Kansas State Agricultural College, which the Oxford debaters attended before the debate.

afternoon, I think I would be churlish indeed if I did not thank you for your great courtesy in coming to listen to our poor remarks on the League of Nations this evening. I wish to offer you my sincerest congratulations on your victory over Kansas University.

I will admit that most people in Europe, when they come to discuss the attitude of this country toward the League of Nations, are apt to find themselves in certain difficulties because, to some extent, the League of Nations does not seem to be a success; and evidently because the pre-war system has proved inadequate to guarantee the world's peace; but that there is no chance of guaranteeing that peace save in some sort of a world-organization, seems a conclusion which follows equally. I will admit that most Englishmen who come to America find it difficult to understand, and some Englishmen who know something of America have difficulty in understanding the attitude of your citizens, who, united in States, should find it anathema that nations should be associated. The difference seems a small one—a matter of words—and for my part I should say that the objection to America's entry into the League being on the ground that it should be an association of nations, I should not hesitate to make the change. But this objection to the League of Nations is not an objection—I understand from the speaker who just sat down—is not an objection to the League of Nations idea, but to this particular League of Nations, and we have to find out wherein lies this objection which is so strongly felt in America to this particular League of Nations. Is it



to this particular League of Nations? and if so, I would say that all these objections can be met; that the details of the League's organization can be changed without difficulty; that the constitution of the League of Nations is not written imperishably, and no jot or tittle lacking. All parties to the League of Nations would be willing to amend it and come to some agreement to meet the objections of this country, if only by meeting these objections she can see her way clear to join; and naturally if America fairly tries to see if her objections can be met, it seems that these objections are irrelevant.

Now, what are these objections? I have heard objections raised of one sort and another, sometimes inconsistent. Sometimes that the League is nothing more than a pro-German organization, and nothing but a Machiavellian effort; sometimes it was apparently such a strong thing that if America joined it would mean that her sons would be sent miles from home to lay down their lives in a controversy in which they had no interest; and sometimes because it was such a weak thing that it was not worth while for America to come in and join it. It is too important a subject for us to merely contend about and make a debating point. These objections are directed to one thing and another. What are these objections more in detail? What is this feeling which we hear so much of regarding Article Ten, upon which, more than any other, America grounds her refusal to join? There is a feeling that if Article Ten was in, America would lose her independence, and that she would have to send her sons over the seas. But what is

Article Ten? It says that the members of the League of Nations undertake to protect and preserve the territorial integrity of other members, and the Council shall advise upon the means by which this shall be done; and Article Five says that the recommendations of the Council must be made unanimously; and so such arguments as are used in America against Article Ten that the United States loses her integrity, are not true. During the time in which the League of Nations has been in existence, peace, as the last speaker has pointed out, has been far from adequately preserved. And yet, take such a country as Canada. How many Canadian soldiers have been sent overseas to preserve the peace of some alien country? Not one. America would not be called on to preserve peace in Europe any more than Canada has; soldiers have so far not been found necessary by the League to secure peace.

We have the complaint that the League of Nations is intertwined with the Treaty of Versailles. It is hardly a fair objection to make against an Englishman, or against Europe as a whole, for if the League of Nations was intertwined more than it should have been with the Treaty of Versailles, was it not at the instigation of the United States that it was done? However, if it is imagined that these two documents happened to be within the covers of the same volume, and that we are out to enforce every item in that Treaty, it is a mistake. The Treaty of Versailles is a document full of many vices, and it will soon be one of the problems of statesmanship to remove and revise them. It is a hard thing to do, anyhow. When Senator LaFollette announces that he

will revise the Treaty of Versailles, we wonder how he is going to do it. The Treaty must be revised in many important features, and I say there is but one hope of its being revised, and that is through the League of Nations.

You have heard of one of the Articles of the League—Article Nineteen, which provides that treaties shall, from time to time, be revised. I will admit that the Article leaves a lot to be done, and with that Article there it will be difficult ever to revise the Treaty of Versailles; but without the League of Nations, it will be impossible.

The League of Nations does not solve everything, but it is a beginning point. The gentleman on the other side of the house said that chauvinistic factions are still ruining nations. Well, I don't think as much so as he would have you believe. I think he has fallen into the error that nations are like individuals, which have one character. But there is a small amount of truth in his charge that the League of Nations has been far from what it ought to be. If that is true, what is the reason for it? What reason for it is there, except the reason that the United States of America, the one country which could prevent that, is not represented in the League of Nations—the only country that could have stood for those things and said, "This shall not be!"

He says, "We will not go into the League of Nations because there are a lot of nations in Europe that do not obey the law." We may as well say, "We will not have any criminal laws because there are lots of murderers." If the lion and the lamb were still lying down together

the League of Nations would not be necessary; but because this spirit of war has brought the world to the brink of destruction, it is necessary that we do have a League of Nations to bring about peace and see that there shall be no more world wars, and that civilization shall be preserved.

It is said that my country—England—inserted a clause by which six votes were given to the British Empire; and that is used as an example of the imperialism of my country. Now, first, the actual fact is, it is true that in the Assembly of the League of Nations every one of the self-governing Dominions is represented. It is also true that the decisions of the Council, except the pure matters of routine, have to be unanimous decisions. So the six votes of the British Empire enabling it to defeat the United States of America six to one, is a misrepresentation of facts. I would use the fact of the six representatives of the British Empire just the opposite way. Suppose the League of Nation's constitution had been drawn up and it was found that all parts of the British Empire should be represented by one delegate, and that Canada, New Zealand, Australia had no representation. But the English government does not appoint the delegates from Canada, Australia, New Zealand, and Ireland. They come there as separate delegates. Suppose the United States would join the League of Nations; the delegates from Canada would come a good deal freer from the British government than your delegates from Panama would be free from the United States government.

Now, you say that in asking America to come into it, we are seeking to drag you into the Old World disputes. It is not the League of Nations that is dragging the United States into disputes in the Old World; but it is the economic values that have done it already. What is the good of saying that now? What is the good of saying that you have no interest in the League of Nations? The Old World is not concerned whether we have a League of Nations or not, but it is concerned whether the world is to be convulsed by four or five years of bloody fighting, or that we have a swift guarantee of peace.

You say that the proposal of arbitration has been so unfortunate as to fail, and that the United States would suffer a hard blow if she were ever to submit to some neutral arbitration. This seems a peculiar argument for any American statesman to make, for America was the first country to propose, and led the world in this arbitration feature; and already in Bolivia, Chile, Brazil, Columbia, Guatemala and about fifteen other countries she is practicing arbitration, and this is no more than she would do if a member of the League of Nations. The only difference in America's position if in the League, would be a very admirable theory carried out on one piece of paper instead of seventeen.

Our friend says that the League of Nations has done nothing towards the reduction of armaments. There are more soldiers in Europe than we would like to see; but after the last meeting of the League of Nations at Geneva, with a prospect of a second conference on world disarmament, it behooves us to wait until we have

the result of that conference before we say that it has done nothing.

Now, all these wars that have been going on in Europe—there have been wars that we have stopped, and wars that we have failed to stop. We did nothing in the trouble between Jugo-Slavia and Albania. The truth is that there was a suggestion at the time of that dispute from the League of Nations that an economic boycott should be applied against Jugo-Slavia, and the next day her troops were in fact, withdrawn. There was another dispute in Europe between Sweden and Finland in which war was actually averted. But everyone who speaks of the League of Nations tells of the wars that do happen, and no one tells us of the wars that don't happen.

I remember hearing the statement that in the crisis in Russia, the League of Nations did nothing. Why not? Behind Poland stood Germany, which was not in the League and whom England was not going to fight, and America, which did not belong. The League could not prevent it. No one will give the League of Nations a square deal. We do not claim that the League of Nations is some mystic formula which we can repeat. We say that it is the only practical scheme that can offer any hope. Europe, in her agony, appeals to the United States to come and save her at this moment when she is in a position that her survival is a matter of doubt. I appeal in the name of that other country Spring-Rice spoke of when he said, "Her ways are ways of gentleness, and all her paths are peace."

Second Negative, J. D. Woodruff  
Oxford University

MR. CHAIRMAN, LADIES AND GENTLEMEN: I have had to admire the variety with which the American audience passes a pleasing evening. Particularly in connection with another subject, prohibition—we were told if we wished to see variety, to wait until we got to Kansas. I assure you that we have this evening a very different atmosphere than one which might be expected in a university whose football team has just won a crucial battle.

Generally, as I have said, we are talking on more intimate subjects, and we have had it flung in our faces that we are a wicked, selfish people. That is the charge against which we have to defend. And that is the very charge which we are able to bring to-night against the American nation; that the policy which the American people have followed has been a policy which rather lets down the other countries of the world.

Thus far to-night I expect you have noticed that all of the speeches have been very eloquently designed to bring out the idea that things in Europe are in an exceedingly bad way; that the statesmen and people of Europe are exceedingly given to selfish ends, and I think any idea that the Americans are simpletons can be safely banished by the calculating suspicion and covert way in which the cards are stacked against us. And before leaving that subject I will say that I am exceedingly embarrassed as a result of seven days'

labor <sup>1</sup>—only one day longer than it took to make the world—and I know what is meant by “American hustle.”

While I am the last person to come to this continent and say that America is to blame, it is perfectly true that for some reason or other, international politics is more or less of a jumble. I think that my friends are perfectly right in suspecting all the nations of the world, for when a man comes and says that he wants to bury the hatchet, it probably means that he has an axe to grind. Such a natural handicap is intensified in the case of my own country by the fact that Lloyd George who has directed our policies, had a large part in it; but if it is true that things were done in the making of peace which were to all fair-minded people reprehensible, we think we should forget them. They say that it is a wise child that knows its own father, but the Lloyd George gentleman has disappeared, and Mr. George may take rank as a man of mystery; and when we talk of the League of Nations in the future we will hope it may lead a very useful life, although at the time it must be admitted that it betrays certain weaknesses—that is to say, all these weaknesses have been very prominent in the past and probably will be in the future. All these governments, however, will have their statesmen, and maybe you had better deal with them openly in Geneva than in conferences behind closed doors.

Rather more criticism is directed against the determined attitude of the French. Well, the French are

<sup>1</sup> Referring to time available for preparation to Kansas debaters.



suffering from a very severe attack of nerves. Their population is getting smaller and smaller, while that of their hereditary enemies is getting larger and larger, and they hope to make up by an abundance of caution their lack of men.

That is the very thing we tried to get the Americans to say with us. We wanted a grand consolidation of the nations of Europe, but we got a few gentle digs in the ribs as a reminder that there were certain sums of money still outstanding.

After all, the League of Nations is what it calls itself—a League of Nations. That is to say, it is nothing new. It is just a way of behaving which is only valuable as it is used, and is only valuable in proportion as it is used by those nations which can speak with authority. It is an idle dream to think that Europe is a place where you can visit, whose incompetent, inefficient people cannot make their own lives worth living. I should be the last to destroy the case that the other side has built up, but there is not much more basis to the argument than the fact that Europeans are an unhappy people, unable to get on with the main business of life and the protection and enjoyment of wealth. All that is upheld by their failure to get straight politically. It is the mere poverty that is produced by a failure to do business. Although we were not thinking of pity when we came here, we think there is need for pity on your side for the conditions which will continue from generation to generation unless some solution is discovered for the political ills of Europe.

Ladies and Gentlemen, after the Chairman had made

what I thought was a rather unfortunate remark that the speakers here were not content to speak for a lesser period than an hour each, I want to keep check on myself. (Speaker consults his watch.) I neglected to look at this when I began. In the course of my remarks I am only going to make one last point, and that is this: We could spend this evening quibbling over the particular decisions which the League has made; many of them, as we think, extremely valuable: others doubtful. We could follow that, but it would not be of very much benefit without a map of Europe, and this (referring to back-drop) is a rather idealized picture of the map of Europe at this time. I will admit that things are in a terrible condition, and there is a great deal of chicanery and greed going on in Europe; but the reason for this trouble is that Europe is largely an armed camp because the peace was largely a failure, and for that failure the American people cannot escape a large portion of the responsibility.

You abandoned the Monroe Doctrine when you came into the War, and your present attitude is to drop out of European affairs when it is impossible for your idealistic impressions to take sovereign sway.

The oldest trouble in Europe is the trouble between France and Germany, and that will be settled only in proportion as the new spirit, that of the League of Nations, comes to prevail over the old spirit. Half of the trouble is that the old spirit has prevailed over the new spirit of publicity and open-handed talk at Geneva. Publicity is a great thing; but they simply haven't got the faith to come open handed into a full assembly of

all nations of the world. The third speaker on our side will go into these details, but I will repeat that the main reason is a change, and a simple one.

America's responsibility is being enforced by its interests. Mr. Borah makes this point when he states that American industries are looking more and more to Europe for their markets. You are producing more and more goods, and for those goods you need a market, and when you think you are injuring strangers, they often prove to be your children. There were a people to whom a stranger came and made advances towards them. They came at night into his room and fell upon him in the dark; but in the daylight they discovered he was their own child, returned. The moral is, that you think your interests can be separated from those of the European people, while reason says they cannot. I thank you for your attention.

**Third Negative, Malcolm MacDonald**  
**Oxford University**

MR. CHAIRMAN, MY FRIENDS OF THE OPPOSITION, AND LADIES AND GENTLEMEN: I confess that I hardly would have dared to come before you this evening, had you lost this afternoon's game. Before I went on the field I began to wonder what on earth I could tell you about the League of Nations that would console you under those distressing circumstances; but I assure you that my cares were lifted from my shoulders when I got up in the high seat. There was no doubt from the first minute who was going to win in the end.

It is very pleasant indeed to come to Manhattan personally and debate, and to see a fine game like that—and I also congratulate you on the extraordinary subsequent procedure, for had we had a victory like that at Oxford, we could not hold a debate within a week, a fortnight, or a month. I think you have shown a great deal of restraint. I wish we could have some of those cheer leaders and those two rival bands, but I would like to have seen some bagpipes, as well. I think that is a little clan of Scots over there. Under such circumstances I believe we might be able to make speeches on this side which would bring you a little more to our point of view, and the point of view of our friends and your friends in Europe.

My friend from the other side of the house has told you a great deal about the selfishness of the countries which went into the League of Nations. That is partly true; but the only thing I can say in reply is, that the greater part of the accusation is unfounded. The last speaker talked of the selfishness of the nations going into the League, and then went on to make one of the most selfish speeches on behalf of America to which it has been my privilege to listen. "We must not enter the League of Nations because the whole spirit of the League is on the side of the Japanese." That is purely a selfish construction. I am afraid my good friends have lost a little of the idealism and the faith which people in Britain and France and Germany and Italy and Belgium believed they had. These nations have not lost their faith in that idealism, or I assure you there would be no League of Nations to-day.

It is a little difficult, after traveling in America and receiving the whole-hearted and spontaneous hospitality that has been accorded us, not to wish that that friendly hospitality could not be interpreted along a larger way of helping us in the League of Nations.

My friend spent a great deal of time telling you how the League had been defied in the bombardment of Corfu, and other instances of that kind. I can tell you quite frankly that the greatest blow that it ever received was when the United States refused to enter it. I can assure you, as one who was in Europe at that time, that Europe was never in such depths of despair during the War as they were when they learned that the United States was not to join.

But we are not here to reprimand you for your actions. The League of Nations was certainly an ideal, and it was perfectly plain from the beginning that there would be mistakes, and mistakes, and mistakes. That doesn't mean, however, that the people who are concerned should shed their responsibility. The speaker has said that America has done a great deal since the War to help the world. I agree. America has been generous and high-minded in relief work; but those things are outside of the main issue which we are discussing,—they want to know about the bombardment of Corfu. Why didn't Britain make a protest against that? She had a seat on the Council. Was not America's attitude in staying out of the League of Nations of greater influence in not stopping the bombardment of Corfu, than Great Britain's was? Has America's staying out of the League had any effect in making possible these eight or nine

instances for which the gentlemen blame the League? America's attitude has been just as vital as any action of the League of Nations.

The speeches which my friends delivered, described with a great deal of accuracy the selfishness, a certain amount of militarism and a good deal of hatred among the European nations. That is one of the great arguments for a strengthened League of Nations. The object of the League and the view in which it was received was this; that it was going to be a kind of world-organization for the maintenance of peace. My friend said it was strictly a European affair. I would remind him that its greatest strength came from American capitalists. We know quite well that the old methods of preserving peace have failed utterly. Having no world understanding, no world machinery to which world difficulties could be brought, and as a result of that absence the allowing of the world to be ruled by alliances here and there—one military camp opposed to another military camp—resulted in the state of finances in my country to-day. The nation's budget comes to about eight hundred million pounds, and of that, six hundred millions go to pay for the last war and to prepare for the next one. This large expenditure for war material and war debts is a very shocking waste of human energy and activity and should make people consider seriously an unselfish League of Nations.

We are told that it has failed again and again; but no one has referred to its successes. In the first place, we are told that the League had nothing to say when Poland marched into Vilna. If the League hadn't very

effectively intervened, the Poles would have marched very much further. The Poles were stopped from going further than Vilna, and finally retreated from Vilna altogether. We are told that the League was ineffective in stopping Jugo-Slavia's invasion of Albania. Mr. Lloyd George sent a telegram to the League of Nations saying, "Jugo-Slavia has invaded Albania," and calling for the use of the economic forces of the League; and within a few hours afterwards, the Jugo-Slavian army was withdrawn back within its boundaries. A very good example of the prevention of war, which could not have been had there been no League of Nations, was in the question between Finland and Sweden over the Aaland Islands. In the question of Silesia, we admit that this settlement was very bad. It left dissatisfaction; and yet it was far better than the best that could have been effected by any other means. It prevented a war; it got the difficulty over with peace, and it left the people for a certain period, at any rate, during which they cooled down. You have international accord set up at a later date by the League of Nations in the settlement of a very nasty difference of opinion when the French tried to conscript British subjects in the Moorish provinces, and it averted a possible war between Great Britain and France. Those two selfish nations said, "We will leave it to the League of Nations," and the League made a decision which Great Britain and France both accepted. There are examples of the successful work created by the League of Nations.

We are again told that the League of Nations is made up of nations who are selfish. I had the privilege of

meeting many statesmen at the London Conference. I had the pleasure of meeting His Excellency, the American Ambassador. He would not tell you that his colleagues during that critical month were selfish people, and that France was the head of this great selfish alliance. Somewhat selfish they may be. I do not know what my people at home would say to me if I made that concession in the interests of European interests. France, whom we have heard belabored this evening, has made many sacrifices during the last six months, and if my friend will stop reading the articles of Mr. Simonds, which were quite true of conditions in the early part of 1924, he will find out that the spirit of Europe has changed very much in the last six months, and that those nations need America to come in and help them.

They are making mistakes. They are groping their way. They are trying, against the very greatest difficulties, to make this machine a success. France is coming into the Disarmament Conference next July, and I wish the American people would keep their faith and say, "All hope is not dead, nor does it sleep; wrong does fail, right prevails, peace on earth, good-will towards men."

**First Negative Rebuttal, Malcolm MacDonald**  
**Oxford University**

MR. CHAIRMAN, LADIES AND GENTLEMEN: I am afraid this is a rather sudden re-appearance; but I thought I would give you just a look at something you



don't see in America, and that is "a double shot of Scotch." I should like to express again my delight in coming to Manhattan this evening and meeting in debate the Manhattan students. We have been here about three weeks, and have debated a great many of your domestic and international problems, and whatever the results may have been, we have been very far from losers by reason of these discussions. We have had most interesting discussion all the way between New York and Manhattan. Our understanding has been increased tremendously, our friendship has been added to considerably, and it is a great pleasure to add to our list of American friends some people in Manhattan and in the Kansas State Agricultural College. We have enjoyed very much the kindly hospitality which has been extended to us here.

Our friends, in their speeches, have limited their criticism of the League of Nations to matters that have to do with international affairs. That kind of activity by no means exhausts the activities of the League of Nations. The League of Nations, through effective organization in Geneva, has been able to do a great deal of humane work. It has been able to bring relief to war ravages; to relieve famine in Russia. It has carried on very good work in connection with the White Slave traffic. It has done a great deal in rescuing European citizens in trouble in Eastern countries. Every day, the League of Nations has been carrying on useful work in many directions. You cannot ignore that good work which is done quietly and unpretentiously every day.

My friend suggests that America's entrance means

the surrender of her sovereignty. I do not think that, when I find that Chief Justice Taft, Ex-Senator Wright and every judge and solicitor in the country disagrees with that argument. Mr. Chief Justice Taft says that by entering the League we would not surrender one iota of our sovereignty. We don't have to go to Mr. Taft to find that out. They say America would lose her sovereignty by being compelled to take military action in matters in which she had no interest. Military action cannot be authorized by the Council until it comes by unanimous decision of the members of that Council. America's seat at the Council table is empty. You will find an empty seat at Geneva which is ready whenever America wishes to come in. Therefore, America is standing alone against economic progress. Economic progress is held up by America. It would give America increased power over that which she has wielded in the affairs of the world.

My friend says that Britain has introduced six members into the League of Nations, and that the British Empire is seeking to turn the League of Nations into an instrument for her own good. They have that argument both ways. One said that the real part of the League of Nations was the Council, and the Assembly had no power at all. I answer him with his own argument, and say that these six members are on the Assembly, which has nothing to do with it on his own statement; and that Canada has no more authority in the League of Nations than would Panama, Cuba, and so on, and the British Empire has but one representative on a par with other nations.

I still want to know, after listening for three quarters of an hour to descriptive speeches of the terrible conditions in Europe which have been continually raised in argument—and now, getting back to another World War—I want to know from the people who described that deplorable condition, what are you going to do about it unless you can get all nations to make an agreement for a machine of peace? That machine of peace cannot be effective unless it has the power and authority of the greatest nations in the world; and all we wish is that one of the greatest nations of the world would add its authority to that of the other nations—to that machine of peace, imperfect as it may be, but which is, notwithstanding, just beginning to prove its worth. To use an old English motto: “Half a loaf is better than no bread.” No nation is able to shed its responsibility because its ideals are touched at the first start. We knew that the League of Nations would fail again and again unless it has the backing of the great moral powers of the world behind it. Our plea is that the League of Nations should be supported by America. The League would gain only by the adherence to it of that nation which to-day probably carries the greatest moral authority in the affairs of the world.

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DECLARATION OF WAR BY  
POPULAR VOTE





# DECLARATION OF WAR BY POPULAR VOTE

## INTERNATIONAL DEBATES *CALIFORNIA INSTITUTE OF TECHNOLOGY vs. UNIVERSITY OF BRITISH COLUMBIA*

This debate was held at Vancouver, British Columbia, about the end of March 1926, the California Institute of Technology debaters stopping while en route to the Pi Kappa Delta Convention held at Estes Park, Colorado, March 30–April 2, 1926. The decision was 2 to 1 for the California Institute of Technology, who debated the negative of the question: Resolved, that, except in cases of invasion, war should be declared only by the popular vote of the people of Great Britain, Canada, and the United States.

This subject was used in Southern California in 1925 for the Pi Kappa Delta Province debate question, and again in the season of 1925–26 as the Southern California Intercollegiate Public Speaking Conference subject but was stated: Resolved, that, the people should have the right to declare war by direct vote except in case of rebellion or invasion.

These speeches were taken in part by shorthand and completed by the debaters from their manuscripts and notes; they were collected and contributed to Intercollegiate Debates by Professor Raymond E. Untereiner, who is in charge of debate at the California Institute of Technology.

First Affirmative, Wayne Rodgers  
University of British Columbia

MR. CHAIRMAN AND FRIENDS:—It is with great interest and with a feeling of honor that we meet our op-

ponents to-night. We of the University of British Columbia extend to the visitors from California Institute of Technology the warmest of welcomes and hope that this is but the beginning of forensic relations that will long continue.

The subject of a popular referendum on the declaration of war is indeed a fitting question for an international debate.

The larger nations have often been very ruthless in their treatment of their neighbors and have taken what they wanted, if they could get away with it. The sole deterrent has been cowardice or fear of a rival, but certainly not the rights of the smaller state or their own national duties. Though living in a more enlightened age we are not yet free from the vices of this detestable condition.

And herein, Ladies and Gentlemen, lies much of the merit of the proposition advocated by the affirmative this evening. Such a proposition as the affirmative advocates will raise the standards of morality in international dealings. The people will be the ones who hold the power to declare war and consequently will exercise much more control over foreign affairs. The public will take more interest in international relations and will demand that relations be conducted along lines more in accord with the concepts of the Many rather than the Few. We are proposing, therefore, a substitution that will tend toward higher standards; a substitution that will give power to a body, tolerant and high-minded in their use of it. Viscount Bryce had much of this in mind when he said:

"The people may have a more broad common sense view of what is and what is not worth contending for than a group of officials who may be steeped in traditions or prejudices. They may sometimes also have a clearer sense of what is just and reasonable and a greater willingness to settle disputes peacefully. In the two English cases already adverted to, they condemned the Afghan War of 1878-9 as soon as an election gave them the opportunity, and they passed a like judgment on the South African War at the election of 1905. If public opinion is generally incurious or apathetic about foreign relations, that is partly because these topics have been so much withdrawn from public knowledge as to receive less public discussion than they require." In another part of his writings Viscount Bryce mentions another instance where public opinion failed to agree with governmental action, namely during the American Civil War when British opinion favored the North and condemned slavery.

Three examples then have been given of instances in which public opinion was contrary to that of the government that declared war. Certainly war offers no inspiration to the masses any more—indeed every day the prospect is less pleasant. The memories of 1914-1918, the new means of warfare which science can develop, have all created a strong feeling against war.

When those who declare war also do the fighting and are at the same time able to act in a generous, unselfish way, the probability of their declaring war is not very great.

I have pointed out a few of several possible examples

where popular opinion did not support the wars waged by governmental decree. In other words, Ladies and Gentlemen, cases in which the people rejected the opportunity of a war which the government would have declared.

Furthermore, there is another pernicious condition existing that the adoption of our proposition would eliminate—"international blackmail." In the diplomatic circles there are numerous secret treaties and agreements entered into by individual countries. Most, if not all, of such pacts are distasteful to the people and their true representatives would never sign such alliances.

The principal cause for many of these treaties is the desire of each nation for military security. Alliance with other or stronger nations is the method used to secure this end. Naturally the dealings are confined to the war declaring body within each nation.

Deprived of their power to make war, the governments of the various nations will no longer be able to make secret pacts and treaties because the people will not tolerate such pacts, thus this undesirable phase of international relations—this secret diplomacy—will naturally disappear.

There will be a distinct tendency toward preventing war, for the masses of people do not want war; and because they have the most to lose and the least to gain, they will be very hesitant in voting in favor of conflict. Their judgment has been good in cases in the past and we can expect it to be equally accurate in the future. Indeed, with the world wide lessons taught and the marked tendency toward peaceful settlement of pressing

problems, it seems that the people will favor such means more than ever. On the whole, it is to be expected that higher standards of morality in the dealings of one nation with another will do much to relieve mutual suspicion and distrust. There will be less friction between various nationalities and the antagonism will gradually fade away, for unless a marked wrong has been committed by a nation, dislikes and prejudices will disappear in time if not artificially kept alive. There was some purpose in this where a ruler could declare war on a moment's notice, but such would no longer be the case. In short, the people are less likely to declare war than the governments because they are more generous and tolerant and, realizing their own losses, are not as eager to fight.

With the adoption of this proposition will come a new interest in world politics and international law. The people will be better informed, and through improved methods of keeping in touch with public opinion will enter more directly into the actual government.

For these reasons we of the affirmative urge that, except in case of invasion, war should be declared by a popular vote of the people in Great Britain, Canada and the United States.

**Second Affirmative, Bert Bailly**  
**University of British Columbia**

Mr. Chairman and Friends:

Coming as our opponents do from that great Democracy to the south of us, it is ironical that their attitude

in connection with this resolution should be one of such half-hearted democracy. Since it is my intention to consider this resolution first in connection with that great institution—democracy—I will be able to show you more clearly the position taken by my worthy opponents.

In the first place, however, my opponents have asserted that the affirmative of this resolution suggests a historical retrogression. If you will follow my opening remarks, you will see that rather than being a digression, such a step would be a progression, a step towards that more perfect state that society is constantly striving after.

Let me take as my definition of democracy "the right of the majority, justly and legally expressed." It is a somewhat common belief that democracy is an absolutely modern contribution to society; modern in the sense that it is peculiar to the last generation. True as this may be in one sense, we are nevertheless able to find traces of the working of a fundamental democratic principle from the early ages up to the present day.

In the early ages we know that man existed as an individual, living for himself only, seeing his fellow beings only as enemies or possible means of destruction. The condition of every man for himself, with somebody sure to get the hindermost. Man's life a perpetual state of warfare, with a battle a day to keep the nearest neighbor away.

Naturally such conditions could not exist for long, and we see man coming into more peaceful contacts,

realizing the value of such contacts, and forming the primitive community. So through the ages we are able to trace the development from the community to the city-state, from the city-state to the nation. Here we see the operation of one of the fundamental principles of democracy, man submitting to the will of the majority for the good of society. We notice, too that in each of these steps war comes to play a smaller part in man's life, as he was infinitely safer in the community than as an individual, and so on.

Coming to the nation, then, do we come to a full stop in the matter of the exercise of this principle of the right of the majority? No. For the nation of a few decades ago was led by a king who largely determined the activities of his people. If he desired more territory, war was declared that he might gain this territory. Or what were the lives of a few of his subjects compared to the beauty of a neighboring king's daughter. So war was still a factor in the life of mankind, though it had decreased in importance since the Every-man-for-himself-days, just as the principle of the right of the majority had become more and more recognized.

Then came democracy as we know it to-day. Power was taken from the hands of the king and put more into the hands of the people. The matter of a declaration of war, however, was left with a group of statesmen. We have seen, then, the exercise of the right of the majority up to the present. We have seen, too, that war has become a less important factor in man's life as this principle has been exercised. It is but logical that democracy should continue, for democracy has by no means

reached its fullest extent. And the next step, just as logical as the step from the individual to tribe or tribe to city-state, is from so-called democracy to a fuller democracy, involving the right of the people to have their say in the matter of the declaration of war. Just as each of the preceding steps has decreased the importance of war in man's life, so will this step. But what is my worthy opponents' attitude? We have gone as far as possible, they intimate. This evolutionary process must stop here. Can my worthy opponents deny human progress? Imagine coming from one of the great democracies of the world and taking a stand so distinctly undemocratic. I suppose there have been men at each stage of the development who have taken the same attitude that my worthy opponents take here to-night. If the efforts of the agitators in the individual period had been successful, to-night's debate would be won by the team that could best wield a stone hatchet, or perhaps run the fastest.

Manhood suffrage, when it was first introduced some seventy-five years ago, was widely opposed, yet it is here to stay. Democracy is not perfect, it may be cumbersome and creaking, but with all its creaking it does not break down. It was declared not so many years ago that to give the people a vote would mean that governments absolutely could not carry on, yet governments do carry on to-day. My opponents take just the attitude that these old objectors took, yet the question that they oppose is not a matter of a mere vote, it is a matter of life and death.

It is evident, then, that the step suggested by the



affirmative of this resolution is the next logical step in this evolutionary process. The last step was the introduction of democracy, the right of the majority. Yet the right of the majority is not allowed to concern itself with a question of peace or war. Such a condition is surely inconsistent with the ideals of democracy.

Yet what reasons do my opponents suggest for opposing this step? Their attitude is that the intelligence of the people will not justify it. The people are too easily influenced they say by the jingoistic press, and such things. Once again my opponents fail to notice the evidence supplied by human progress. For the intelligence of the people, and not the people's unintelligence has brought the world from the cave man state to present day civilization.

The abolition of slavery came about as a result of action due to the intelligence of the people. If my worthy opponents had been alive in the days when personal feuds were a means of settling social disputes, they would have sat back calmly oiling their pistols or polishing their swords, and we would never have had the law courts. Human progress during the last few centuries has been sufficient to warrant our crediting the people with intelligence, and an intelligent people have a right to express an opinion in regard to the declaration of war.

My worthy opponent has attempted to show you how unfit the people are to vote on a declaration of war. Yet he has been unable to state a single case in the history of Great Britain or the United States to justify his contention. On the other hand, Viscount James

Bryce, already introduced by my colleague, points out that during the last hundred years in the three cases in which there has been a marked difference of opinion between the masses and the classes of Great Britain, history has justified the opinion of the masses.

The three cases referred to are:

First, the American Civil War of 1861, when the masses favored the North and the abolition of slavery.

Secondly, Lord Beaconsfield's Eastern Policy of 1876, sponsored by the government, opposed by the people, condemned by its failure.

Thirdly, the South African or Boer War, which nearly every Englishman admits was a failure.

Coming across the Atlantic to the United States, we find the same conditions. Three major wars of the last hundred years; two of them—the Civil War and the Great War—being wars in which the opinion of the people and of the government practically concurred, hence falling outside the pale of this resolution. The third, the Mexican War of 1846—was widely disapproved by the people, and later found to have been instigated by slave-holding parties.

These, Mr. Chairman, are the people that my worthy opponent declares lack intelligence. Yet his statements take the status of mere assumptions, and are not supported by fact. The cases I have mentioned show that the people are sufficiently intelligent to warrant our placing before them a matter of the declaration of war.

Finally, let us consider the moral aspects of this resolution. The people have an inherent right to say whether or not war shall be declared, since the people

are called upon to do the fighting. We can count on our fingers the number of politicians who see active service. Yet these are the men with whom we leave the actual declaration of war. Imagine the frame of mind of an army, fighting in a war the very thought of which is hateful to them, with the cause of which they do not agree—or the real cause of which perhaps they do not even know. Contrast with this the frame of mind of an army fighting in a war which they have themselves declared, for reasons which were essentially imperative. Surely the latter conditions are by far the most favorable. And these are the conditions which would exist under the affirmative of this resolution if it were found necessary to go to war.

It may be seen then that the adoption of the affirmative of this resolution is the next logical step in the evolution of democracy: that the intelligence of the people is sufficient to warrant placing before them a declaration of war. To deny this is to deny human progress. Finally, in the event of a war being declared the people would be called upon to risk their lives. Therefore, the people have a moral right to express an opinion in regard to a matter involving such a risk.

As I have already pointed out, my opponents have taken the stand of the objectors of old; have lined themselves up with that great army of pessimists who all through the ages have opposed any progressive movement. All their arguments fall into the class of that material, which, impressive as it may seem, nevertheless has as its objective interests that are not the best for society.

My worthy opponent, the first speaker of the negative, has asked for cases where the government has declared war unjustly. We have already supplied him with four such cases, cases that have in the last hundred years stood out as a blot on the success of the administrative powers.

Further, we have shown that the people are not, as my worthy opponent would have us believe, influenced by such factors as the jingoistic press, not, at least to the extent of forcing them to sign their own death warrant. The people's intelligence, taken as a whole, could be compared very favorably with that of the government, the people in many cases not being influenced as much as the government with whom the actual declaration is left.

My opponents, declaring that the government is the voice of the people, protest that the affirmative of this resolution would remove some responsibility from the government. Certainly it would—it would remove a responsibility that is in reality far too heavy for the government to bear. Not long ago the king had some responsibility taken from him, a step which, as I have pointed out, resulted in the people having some share in the government of their country. And now when the government is to be relieved of a share of its responsibility—this responsibility to be carried by the people themselves—my worthy opponents stand up and say no.

My opponents maintain that the people have not the right to declare war. But has the government any more right to declare war than the people have? My opponents say the people have no right to deal with a

question involving their own lives. They continue, why should the people say whether or not they shall go out and kill some one else. Yet why should the government say that the people must be killed. It almost resolves itself into a question of suicide and murder. A man contemplating a matter that may result in his own death—with the possibility that his decision will have no such result. Or a man shot down like a dog because someone with whom he had no relationships had given the order.

My opponents declare that to remove the causes of the evil of war education is necessary. Yet democracy is recognized as one of the world's great educating forces. Surely a step giving the people more responsibility will result in their further education—due to an attempt to know more about what they are doing.

My opponent has made the statement that the affirmative of this resolution would not eliminate the possibility of war. Here again he is neglecting the evidence supplied by history. After that last great catastrophe of 1914 the people of the civilized countries have experienced a very great change as far as their attitude towards war is concerned. If the matter of a declaration of war were put to the people war would be far less of a possibility than it would have been ten years ago. My opponents, seeming to neglect the fact that there was such a war, take no consideration of these changed conditions in the public attitude.

This frame of mind, indeed, is characteristic of that conscientious objecting type—if I may call them such—who have cried out against all the reforms that have benefited man through the ages, yet these reforms

have prevailed. It is the contention of the affirmative that in spite of the objections advanced by my worthy opponent that there will come a time when society will realize the advantage of allowing the people to have their say in regard to the matter of the declaration of war.

**First Negative, Robert T. Ross  
California Institute of Technology**

**MR. CHAIRMAN AND FRIENDS:** It is with the greatest pleasure that we meet the gentlemen of the University of British Columbia to establish, for the first time, forensic relations between that institution and the California Institute of Technology. We are especially glad to discuss a topic of such world-wide interest as the one which we are to debate to-night, the problem of the prevention of war.

As we came across the Sound last night and looked eastward and shoreward toward the thirteen hundred miles of unprotected border which divides the United States from Canada and realized that here, for the first time in history, exist two nations side by side whose relations have been uninterrupted by war for one hundred years, we thought that surely here, in the relations of the United States and Canada, lay the solution of the problem of international peace.

We have listened with great interest to the contentions of the first speaker of the affirmative in favor of giving the right to declare war to the people. The first thing which attracts our attention is the fact that there

is really nothing new in the plan which the opposition advances. Two thousand years ago, and more, our forefathers declared war by popular vote. Since that time nations have grown and governments have come into existence. One of the functions of these governments is the declaration of war. The plan which the opposition advances is then but a retrogression in the social and political history of the Nordic races of some two thousand years; and still they maintain that we should suffer this retrogression on the particular grounds, among others, that it is right and just that the people should declare war. Politically speaking, if it is the right of nations to declare war, it is the right of the people too, in the same sense that it is right that the people should reward criminals, if such be their will. If democracy is just, certainly any measure that the people may want, being in itself democratic, is just.

We of the negative deem a discussion of the practicability of the plan unnecessary. Surely, if the plan is right, if the plan is just, if the plan is all the other things that the affirmative believe it to be, then the ingenuity of the English speaking people can make that plan practicable. The only issue which we must discuss then—is the relation of the proposition to the problem which I have already mentioned: the prevention of war. The only question with regard to this plan which we must discuss, is whether or not it will do any good—that is, whether it will prevent war.

We of the negative, as our position in this debate would indicate, believe this plan would tend to increase the likelihood of war. Any plan, in order to prevent

war, must entail some change, be that change national or international. With regard to the proposition which we are discussing to-night, we see that international conditions are left the same. If before this plan should be adopted, we stand on the shores of Sweden and look toward Great Britain, Canada and the United States, we see those countries capable of declaring war, whenever and on whomever they please. Let us for the moment adopt the plan. Let us again stand upon the shores of Sweden. Again we observe the above mentioned countries still just as capable of declaring war at will. Internationally, then, the conditions remain the same. These countries have merely taken the power to declare war from their right hands—their governments—and placed it in their left hands—their peoples.

The international conditions remaining the same, the only war-preventive measure which the plan entails must be national. But the only way in which a national change can prevent, or tend to prevent war is by exercising the national prerogative to participate in fewer wars. If the gentlemen of the opposition are to maintain their contention that their proposition will decrease the number of wars in which our nations will participate they must establish three points. They must show us that our governments have in the past declared wars which the people under the same circumstances, would not have declared. They must show us, furthermore, that our governments will declare wars in the future which the people under the same circumstances, would not declare. And lastly, they must show us that the people will not declare wars which the government



would not declare—in other words, that a condition will not arise in which the people would declare a war while the government would refrain from that action. Failing in any one of these three contentions the opposition fails to show us wherein their plan is at all needed, or if adopted will tend in the least to decrease the number of wars. Should the opposition establish these points, they have then taken the first step in proving that their proposition would tend to decrease the number of wars in which the already peaceful countries of Great Britain, Canada and the United States might participate.

While the gentlemen are assembling their doubtless interesting points, we of the negative wish to go a step further and show that the plan not only fails to prevent wars, but actually tends to increase them, in that it destroys the present accepted, and to a large degree successful, peace measure.

Should we for a moment consider the Nordic tribes of some two thousand years ago, which I have already mentioned in passing, we find there true democracy—the people declaring war by popular vote. In these times war was a common occurrence, a veritable example of the doctrine of the survival of the fittest. It is interesting to know in this regard that when language first began, if we can ascribe to it a beginning, the word “stranger” and the word “enemy” were synonymous. When one people was ignorant of the ways and traditions of another people, being then strangers they were automatically enemies. There was no government; the only way, then, in which differences could be settled was by exercise of force. The peoples could reach no mutual

understanding, in that they had no representatives. Soon, however, realizing the undesirability of constant conflict, these peoples, seeking a way to *prevent* use of force, chose for themselves a representative. This representative, whether king or congress, exercised the government of the people and sought to bring about such an understanding with its neighbors as would make the stranger-enemy a friend. But, failing to make friends of his enemies, he should strive to reach an agreement whereby war might be prevented. This is the function of the government.

Briefly, then, we see that war is the fundamental condition of nations, the eternal threat—and that the only international function which the government may exercise is the prevention, not the perpetration, of that crime. And the prevention of war rests in the ability of the government, as a responsible representative of the people to make binding agreements that it will refrain from war.

Let us briefly examine some of the peace-making measures of our present government with regard to this service. The diplomatic service is the oldest of all the hypothesis. Let us first briefly discuss the diplomatic peace-making organizations. A diplomat is one who, as a responsible representative of his government, seeks to avert wars by that subtle influence called diplomacy. His ability to avert war is based upon his ability as the representative of a responsible government to make binding agreements that his government will refrain from war.

It is easy to see that should the plan of the affirma-

tive be adopted, the people by that very act remove the responsibility of their government as their representative, and publishing this fact to the world, make it impossible for the diplomat to make any agreements involving the declaration of war. By adopting the plan of the affirmative the people have then made it clear that they have taken back the powers which they once gave to their government, and in that act have destroyed one of the oldest, and perhaps one of the most effective peace measures—the diplomatic service.

Again, let us consider another of our peace making institutions,—that of arbitration. The success of arbitration depends upon the ability of one responsible government to make and to receive concessions from another responsible government, and having given and received these concessions, to make binding agreements to refrain from war. If this ability is removed, or if a government is not responsible, or both, the peace making power of the arbitative system is destroyed, and as the adoption of the affirmative plan destroys both the responsibility of the government and its ability to make binding agreements, it, therefore, in a two-fold measure destroys the accepted, peace-making, arbitative institution.

The newest, and we hope the greatest peace-making institution which the world has accepted is the World Court. The success of the World Court as a peacemaker depends not upon diplomatic tact, or concessions, but upon that great international ideal, Justice. But to succeed in this work of preventing armed conflict between nations, the World Court must expect from the

nations appealing to it an understanding that they will accept the verdict of the Court, and as responsible governments will refrain from war.

Again, the success of a great peace-making institution rests upon the ability of a responsible government to make binding agreements that it will not go to war, and as has been already seen, the plan of the affirmative removes this ability from the government, and therefore destroys this third peace measure. Thus one by one we may examine the various peace measures which the world to-day uses, and one by one we will find them based upon the fundamental ability which the affirmative would to-night destroy—the ability of a responsible government to make binding agreements that it will refrain from war.

In a word, then, we have attempted to show that the proposition maintained by the affirmative, while accomplishing nothing new, will not prevent war but will destroy present accepted peace measures. In other words, the measure proposed by the affirmative leaves the causes of war untouched, but removes the ability of responsible governments to refrain from going to war.

Second Negative, Ward D. Foster  
California Institute of Technology

MR. CHAIRMAN, GENTLEMEN OF THE OPPOSITION, HONORABLE JUDGES, FRIENDS: I wish to reiterate the sentiment expressed by my colleague when he told you of our appreciation of the privilege of meeting in this

debate, representatives of the University of British Columbia. It is always a pleasant and valuable experience to meet a team from another college; and when that team represents a different commonwealth and that commonwealth is our neighbor, Canada, such a meeting is extraordinarily pleasant and valuable. We of the California Institute of Technology trust that the ties between the University of British Columbia and our own institution, being established to-night, may be strengthened and increased in the future. And speaking for ourselves of the debate team, we hope that the University of British Columbia will give us a return debate in the near future so that we may express, by more than mere words, our appreciation of the wonderful welcome and hospitality offered us here.

The gentlemen of the affirmative, in contending that, except in case of invasion, war should be declared only by a direct vote of the people, seem to rest their case upon the contention that their plan will decrease wars. They would have us believe that the government wages war when the people would not. The error in this argument is most conspicuous. Almost all the governments of the world to-day are republican in form. The governments, therefore, never wage war. The war is fought by the people. It may be true that governments exert forces of propaganda to aid in stirring up public opinion to the point of whole hearted approval of the war. But friends, that possibility is in no way prevented in the plan of the affirmative. It is apparent then, that the contention that the plan of the affirmative would decrease war on the ground that the governments wage war is,

in the light of our present political situation, quite untenable.

Moreover, my colleague has shown that this plan not only fails to prevent war since it in no way removes the causes of war, but that it will actually increase the likelihood of war. He pointed out that every peace method is based upon the ability of a recognized government to make binding agreements to refrain from war; that without this ability of a recognized government all of our present peace measures would be abolished. Yet the gentlemen of the affirmative would remove that ability of a recognized government to make binding contracts to prevent war—they would scrap all our present peace measures. Those present peace measures—the World Court, the League of Nations, etc.—are the products of the best minds of the greatest men of the world—men who have studied international affairs for a lifetime. In scrapping such measures—in overthrowing the work of such men—by a single gesture, the gentlemen of the affirmative demonstrate that they most assuredly do have the courage of their convictions.

It is my privilege in concluding the case of the negative to establish that the plan of the affirmative is wrong in principle. It is wrong in principle because it does not eliminate war by any recognized method.

There are three methods of eliminating an evil.

There is, first, the substitution of a rule of justice for one of injustice. In the olden days, personal differences were settled by a duel, on the principle of might makes right. This evil was abolished by the court system—settling the disputes by the decision of a disinterested

third party. This is the substitution of a rule of justice for one of injustice.

An evil may be eliminated by a second method—it may be eliminated by the removal of the causes. The old evil of disease and pestilence has been largely eliminated by a removal of the causes—filth and unsanitary conditions of living.

The third method of eliminating an evil is the education of the public to the desirable public opinion. Not so very many years ago individuals were tortured—wars were fought because of religious intolerance. To-day that evil has been removed through the education of the public to the desired public opinion—religious tolerance.

There are then, these three methods of removing an evil: First, the substitution of a rule of justice for one of injustice; Second, the removal of the causes of the evil; Third, the education of the public to the desired public opinion.

Now let us examine the plan of the affirmative and see if by any of these three methods their plan will eliminate that great evil, war.

As to the first method—does the plan of the affirmative substitute a rule of justice for one of injustice?

We know that society no longer sanctions duelling, feuds, or lynchings. Society recognizes that the principle of permitting a participant in a dispute to judge his own case is unjust and obsolete. It, therefore, has developed a court system in which a disinterested, impartial third party settles the dispute. This same principle is used in the establishment of the League of Nations,

The Hague Tribunal and the World Court. It is quite apparent that the principle of permitting a party to the dispute, biased and prejudiced as he is, to judge the case is unjust and is properly replaced by the practice of settlement by an impartial third party.

Upon which of these principles is the affirmative plan built? Friends, the only question the affirmative would ask preparatory to a war is this: "Do you—the people—prejudiced and partial as you are, influenced by a jingoistic press—soap box orators—or commercial interests as you probably are; do you—the people—a party involved in this dispute, do you want war? If so, then let us arrange methods so that nothing can prevent your having it!" Why friends, the plan of the affirmative is built on the principle of permitting a party to the dispute to judge the case. It is built on a principle that society has declared unjust in innumerable cases. It is built on a principle made obsolete by the just principle of judgment by an impartial, unprejudiced, third party such as the World Court and the Hague Tribunal. Does the plan of the affirmative eliminate the evil of war by substituting a rule of justice for one of injustice? It most emphatically does not! Not only that! It not only fails to substitute a rule of justice for one of injustice, but it removes a principle of justice and substitutes a rule which society has declared unjust hundreds of years ago. Regarded then, in the light of the first method of eliminating an evil, we see that the plan of the affirmative not only fails to adopt this method, but in reality, reverses it, and tends to increase the evil.

Now let us regard the plan in the light of the second



method of removing the evil. Let us ask ourselves: "Does the plan of the affirmative eliminate the evil of war by removing the causes of war?"

In order to give the question an intelligent answer, we must determine the causes of war. The apparent cause is economic rivalry. But economic rivalry need not result in war. It isn't a practice for one merchant to waylay and shoot his fellow merchant just because that fellow merchant is in the same business in the same community. Those merchants recognize that if they cooperate to develop the community they will both prosper. They have the community view point. Nor is there perpetual war between two communities because of the economic rivalry between them. The communities recognize that that which benefits the rival community, benefits the state and, therefore, benefits them. The communities have the state view point.

Nor do the states have armies warring continually because of economic competition. The states recognize that what is good for a rival state is good for the nation and is good for them. They have the national view point.

In the same way, the two great commonwealths of Canada and the United States have existed peaceably side by side, in spite of economic rivalry, because of what we like to think of as the continental viewpoint, the "continental mind."

It becomes clear then, that economic rivalry is only the apparent cause of war—that it need not be the real cause if we look at such rivalry from a broad view point. Economic rivalry may be the cause of war if we look at

affairs from a narrow, selfish, national view, if we regard international affairs only in the light of benefit or detriment to our particular nation. Nationalism—the spirit of intense nationalism—the practice of regarding national economic rivalry, or any international affair from a petty national view point, is the *real* cause of war!

Does the plan of the affirmative remove this cause? Let us look at Mr. Average Citizen. The affirmative—let us say—has given him the power to vote on war. He knows that next week he might be called on to vote on a war. He must, therefore, attempt to keep abreast of international affairs. His source of information may be a prejudiced newspaper. He may be acquainted with only one side of international differences. No matter. He realizes that he must, in regarding international affairs, ask himself continually, “How will this development affect my nation? Will it help or harm it?” In other words, Mr. Average Citizen is compelled by the responsibility thrust upon him to regard international affairs from a national view point. That spirit of intense nationalism—the real cause of war—is not eliminated by the plan of the affirmative. Instead it is encouraged in its development—it is increased in magnitude. In the light of the second method of removing an evil, it is apparent that the affirmative plan fails and fails miserably, because it not only fails to remove the cause of that evil, war, but in reality it increases it.

Let us then pass to the third method of eliminating an evil, let us see if the affirmative plan is built upon that

method. Does the affirmative plan educate the public to the desirable public opinion? Now what is the desirable public opinion? To eliminate war, the public must believe, first, that aggressive war is unnecessary; second, that aggressive war is unjust, and third, that aggressive war is never the ultimate solution of international problems. These three facts the public must be educated to believe, if war is to be eliminated.

Now let us see if the affirmative plan educates the public to these three facts. The affirmative plan anticipates war in the future; it causes the public to anticipate future wars by making provisions for their declaration. It, therefore, educates the public, not to the belief that war is unnecessary, but to the belief that war is necessary and inevitable.

Moreover, the affirmative plan, by making provision for a nation to declare aggressive war, asserts that it is the right of a nation to wage aggressive wars. It educates the public to the belief that aggressive wars are just. And, since by providing facilities for a declaration of war, the affirmative plan educates the public to the belief that aggressive wars are just; since, as has been pointed out, this plan destroys all present peace measures, it is apparent that the affirmative plan fosters the opinion that war is the ultimate solution of international problems.

Instead of educating the public to the desired public opinion that aggressive war is unnecessary, unjust, and never the ultimate solution of international problems, the affirmative plan does just the opposite—it encour-

ages the belief that aggressive wars are necessary and inevitable; that aggressive wars are just; and the ultimate solution of international problems.

Since then, the affirmative plan does not substitute a rule of justice for one of injustice, because it is based on the unjust and obsolete principle of permitting a party to the dispute to judge his own case; since the affirmative plan does not remove the causes of the evil, war, because it encourages that spirit of intense nationalism, the real cause of war; and since the affirmative plan does not educate the public to the desirable public opinion, because it encourages the belief that war is necessary and inevitable; it is apparent that the affirmative plan does not remove the evil, war, by any recognized method. It is, therefore, wrong in principle.

The negative has now established, first, that the proposed plan will tend to increase wars, since it removes the ability of a recognized government to make binding contracts to prevent wars—and, thereby, destroys the basis for all of our present peace measures.

The negative has established, second, that the proposed plan is wrong in principle since it does not, by any recognized method, attempt to remove the evil, war, but in reality, in the light of those methods, encourages war. We are therefore convinced that war, except in case of invasion, should not be declared by a direct vote of the people.

Friends, the affirmative have declared they believe war is bad. We all believe it is bad. Why then, should we give it a vote of confidence by making provisions for its declaration? Why pass the power of declaring war

from the right hand—the government—to the left hand—the people?

National suicide may be all right, but international murder—war—is wrong! Why juggle the ability to commit it? Why not wipe it out? Eliminate international murder!

The English speaking peoples to-day have the power to eliminate war forever. Let's exercise that power. Instead of juggling the power to declare it from one hand to the other, let's outlaw war altogether! Let's make war forever impossible!

#### LIST OF REFERENCES ON DECLARATION OF WAR BY DIRECT VOTE OF THE PEOPLE.

(N. B. There is not much in the way of references on this subject, as it is new, and has not been discussed widely. The Library of Congress, Division of Bibliography, Washington, D. C. has a list of References on declaration of war by popular vote, which is sent out on request. The list of references on the League of Nations and on other peace subjects should be consulted.)

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UNIFORM MARRIAGE AND  
DIVORCE LAWS



# UNIFORM MARRIAGE AND DIVORCE LAWS

## *EUREKA COLLEGE DEBATE*

The form of statement of the question was: Resolved, that Congress should enact a uniform marriage and divorce law, constitutionality conceded.

These speeches, submitted by Eureka College, Eureka, Illinois, Durward V. Sandifer, debate coach, were used in a dual debate with Illinois State Normal University, Normal, Illinois, on February 10, 1926, and in a triangular debate with Lombard College, Galesburg, Illinois, and Augustana College, Rock Island, Illinois, on February 19, 1926.

The dual debate with Normal University was an open forum debate, an audience vote being taken after each debate. Eureka's affirmative team debated at Normal, the vote being 17 to 16 in favor of the affirmative. At Eureka the vote was 20 to 11 in favor of Eureka's negative team.

In the triangular debate Eureka's negative team won a unanimous decision from Lombard College, while the affirmative team lost a two to one decision to Augustana College.

### **First Affirmative, Miss Elizabeth Mayes Eureka College**

Marriage or divorce has ever been an important issue in the life of civilized man. It is a question which deals with the very foundation of our democracy—the home. The home has always rested on a more or less precarious footing owing to the ever changing

standards of marriage and divorce. To-day, in America, the home is menaced as never before and with it the happiness and welfare of the nation. Why? Because to-day thousands of divorces are occurring annually with the result that the same number of homes are destroyed and thousands of children are left homeless.

It is an alarming situation! What can be done to remedy it? Ladies and Gentlemen, we of the affirmative believe that a sound and sane remedy has been found, namely, a National Uniform Marriage and Divorce Law. Therefore, we of the affirmative maintain that "Congress should enact a uniform marriage and divorce law, constitutionality conceded."

In order to justify that stand, the affirmative will base its case this evening on three contentions: first, present conditions demand a change in our marriage and divorce laws; second, the adoption of a uniform national law is the logical way to meet these conditions; third, our plan for a uniform marriage and divorce law is practicable.

As the first speaker for the affirmative I will show you that present conditions demand a change in our marriage and divorce laws.

In the first place, we maintain that the present wide variation in the marriage regulations of the various states has resulted in serious evils. We see that there is a great diversity in the marriage age. For instance, the marriageable age for females without parental consent in Iowa is eighteen, while in our own state of Illinois, it is sixteen. Here a girl of sixteen in Iowa can come over into Illinois, be married, and return to Iowa where

she will be recognized as a married woman, since Iowa recognizes contracts made in Illinois. Yet this is done in the very defiance of the law of Iowa. Illinois, thus, has the power to set aside the law of the state of Iowa.

It is a shocking fact that five states have a "minimum marriageable age" of twelve years for girls, nine states of fourteen years, eight states of fifteen, eleven states of sixteen, while only nine states require an age of eighteen years. We see then, that serious evils are resulting from the present evasion due to the laxity in regard to the marriageable age in many states.

Let us look for a moment at the evils resulting from evasion due to variation in regard to inter-racial marriage. In Wisconsin marriage is prohibited between whites and colored people, but in Illinois it is not. The evil effects of inter-racial marriages are well known, yet here we have a situation where the laws of one progressive state are entirely set at naught by its neighbor state whose laws are not so progressive.

Of course, the negative will say that inter-racial marriage is a local problem and that many states do not face the evil of marriage between races. But where contiguous states, one with the race problem and the other without it, have varying laws, it is evident that this becomes an inter-state problem and one suitable for federal regulation. The only legislation that can meet such a problem is a national uniform law.

Let me point out to you another evil existing under our present marriage laws, that of the marriage of paupers, of feeble-minded, and of socially diseased. For example, in Illinois the marriage of the feeble-

minded is not prohibited, but in Indiana it is. How long are we going to permit marriages that tend to increase our social problems by the propagation of the unfit and the feeble-minded? The toll of feeble-minded in this country is rapidly increasing.

We face another serious evil in that many states permit inter-relation marriages, marriages of people as closely related as first cousins. Statistics taken from the Chicago Daily News Almanac for 1926 show that nineteen states do not prohibit the marriage of first cousins while twenty-nine do.

I would like to bring to your attention the fact that in Illinois the marriage of first cousins is prohibited, but in Kentucky it is not. The same condition exists between New York and New Jersey. Here again we have contiguous or border states with varying laws on a point where evasions result in propagation of dangerous marriages and unfit offspring.

We find another outstanding evil in our present marriage laws, and that is that there are states requiring no witnesses to be present at the marriage ceremony. Yet, these very same states require witnesses to the transfer of property rights. Is marriage so unimportant that it needs no witness to its contract? Surely it is the most important contract that two Americans make. Not even the savage tribes of Africa allow marriages without witnesses. Such lax provisions inevitably result in fraud and tend to encourage hasty, ill-considered marriages which only too often end in the divorce court.

In view of these serious evils resulting from the op-

portunity for evasion offered by the existing laws of various marriageable ages, child marriages, unregistered licenses, inter-racial marriages, marriages of paupers, feeble-minded, and of socially diseased, and the marriage of first cousins, we maintain that the present conditions do demand a change in our marriage and divorce laws.

In the second place, present conditions demand a change because the opportunity for evasion of divorce laws has resulted in serious evils. Great variations as to the causes for divorce exist among the several states, again allowing one state to set at naught the acts of another. This is quite possible when we consider that there are to-day in this country twenty-seven distinct causes for divorce, varying in frequency among the states from none to forty-five.

South Carolina grants no divorce, and yet, her sister state and neighbor, North Carolina, grants divorce on five grounds. A person can go from South Carolina into North Carolina, and receive a divorce; return to South Carolina in very defiance of the laws of that state and live as a free man. As a result of all this variation, no citizen takes the divorce laws of his own state very seriously. He knows he can easily secure a divorce elsewhere.

Great evils as a result of these variations exist among the several states. Probably the most well known of these is that of migratory divorce. One typical example of this will show you how this system works out.

In a recent year, in Nevada, there were six hundred and thirteen divorces granted, out of which number

only eighty-eight were actual residents of the state of Nevada; of course the other five hundred and twenty-five were legal residents, but the facts are that these five hundred and twenty-five left the state as soon as their divorces had been granted. This wide-spread opportunity for migratory divorce completely nullifies the efforts of some progressive states to stabilize marriage by making the securing of a divorce a serious proposition. The evil of migratory divorce then, made possible under existing conditions, is a great factor in the present unstable condition of marriage.

Another evil in the divorce laws is that many states require no lapse of time between divorce and re-marriage. This evil leads to hasty marriage, for no time limit is placed upon re-marriage. It is this opportunity for hasty re-marriage which is often conducive to divorce. If there was a lapse of time between divorce and re-marriage, the parties might be more careful in their divorce proceeding, and try to live together peaceably instead of appealing to the divorce court at the first ripple in the marital sea.

Because of these many evils resulting from the opportunity for evasion of the laws in regard to divorce, such as great variations as to the causes for divorce, migratory divorce, and hasty marriage, we contend that present conditions demand an immediate change in our marriage and divorce laws.

In the third place, various other evils come from the evasion made possible by the variation in the present marriage and divorce laws. The evasion of our marriage and divorce laws leads to a general disrespect



for the marriage laws of the several states. Every time a person goes to another state either to contract marriage or to secure a divorce on grounds prohibited in his home state, he is violating the law. This disrespect for marriage laws is creating a similar disrespect for the institution of marriage and its sanctity. The opportunities for evasion offered by the various state laws are undermining the very institution of marriage itself.

Another evil resulting from this "colossal hodgepodge" of marriage and divorce laws, is that moral laxity is encouraged, and the family is disintegrating, its several members coming often into the criminal and juvenile courts, and into our public institutions.

Our uniform law is intended to eradicate this moral laxity with its resulting evils of bad marriages.

We can now plainly see that those of our states that do have high standards of marriage and divorce laws are being brought down to the low level of other states whose laws are the most lax. The progressive efforts of some states to better and to make more stable and more solid conditions of marriage in our nation are nullified by these lower states. Because of the fact that other evils are resulting from the opportunity for evasion of existing laws, the evil of a general disrespect for law, the evil of disrespect for sanctity of marriage, and the evil of the nullification of the progressive efforts of some states, we maintain that conditions demand a change in our existing marriage and divorce laws.

We thus have prevailing in the United States a system of laws which allows of various marriageable ages, child marriages, unregistered licenses, inter-racial mar-

riages, marriage of paupers and feeble-minded, marriage of first cousins, migratory divorce, hasty remarriage, disrespect for law and sanctity of marriage, nullification of the progressive efforts of some of the states, and a general moral laxity in regard to marriage and divorce.

Therefore, Ladies and Gentlemen, because of these evils resulting from the opportunity for evasion offered by the existing laws, we maintain that present conditions demand a change in our marriage and divorce laws.

**Second Affirmative, Miss Elizabeth Stubblefield  
Eureka College**

The first speaker for the affirmative has shown why present conditions demand a change in our marriage and divorce laws. In continuing the case for the affirmative I shall show that the adoption of a uniform national law is the only way to meet the conditions pointed out by the first speaker of the affirmative.

In the first place we believe that it is quite possible to prove that state laws have failed to meet the evils of the marriage and divorce problem. How could they do otherwise with their utter confusion of numberless variations with the resulting evils of evasion of the good laws? There can be but one result from this. Even the negative will admit that boys and girls of twelve and fourteen, and the socially diseased, should not be allowed to marry. Yet with many states permitting these things, what do we have? The progressive states

are helpless. Their laws are nullified. Any young couple can easily evade the good laws of one state by going to a state of less wise laws and marrying when they are too young, ill-prepared, and unfit.

Personally, I know a girl of fourteen who ran away to another state to be married to a young man affected with an incurable social disease. This mistake has resulted in the ruination of her life and that of her child recently born; yet this is only one of numberless instances. No doubt any one of you can recall similar instances from your own observation. Under the plan to be proposed by the affirmative such a thing would be impossible.

Because of the failure of state laws to meet the evils of the marriage and divorce problem we contend that the enactment of a uniform national law is the logical way to meet these evils.

But the negative may argue, it would be a wiser policy to wait until we can secure uniformity through legislation by the states themselves. What are the facts? Thirty-five years ago in 1891 the American Bar Association started a campaign to secure uniformity in several phases of our confusion of state laws. The question of marriage and divorce was specially mentioned by them at that time as one of their objectives. Sometime later the National Conference of Commissioners on Uniform Marriage and Divorce Law recommended uniform marriage and divorce laws to the several states. The first law was drawn up in 1895. In 1923 after all their years of effort, but three states had adopted the uniform law recommended by the Na-

tional Conference of Commissioners. Moreover, if the same identical law was adopted in every state, the whole system could be upset by an alteration of the law in one state. These grave conditions, therefore, the failure of the states adequately to meet the situation and the impossibility of securing uniform state regulations point to one logical and effective solution, the enactment of a uniform national law.

The negative may oppose this on the grounds that it is too great a departure from our federal form of government, that it takes too much power away from the states. But, Ladies and Gentlemen, a very superficial examination of the history of the development of the activities of our federal government shows that this would be but a slight extension of the principle of centralized control which the national government has found necessary to exercise in other similar problems.

Early in our history duelling became an evil of such importance that it was forbidden by federal regulation. The federal government then rapidly extended the principle of taking charge of any social problem when it became of serious interstate importance. Among these problems we might mention the use of drugs and narcotics, the adulteration of food, the slave trade, white slavery, the liquor traffic and numerous others. How much more of a national problem is this we are considering than any of those mentioned, for in it is bound up the very salvation of our nation, since the national welfare of a democracy rests upon the stability of its homes.

In this respect Henry Litchfield West, after a thorough study of the powers of the Federal Government, said in his recently published book, *Federal Power*; "There is absolutely no limit to the phases which invite the application of federal authority. No one can examine the record of the laws already passed nor scan the list of measures awaiting action without realizing that popular approval is bestowed upon every effort to involve federal aid in the securing of beneficent results."

We can but conclude that giving control of marriage and divorce to the federal government is in line with its well-established policy in regard to social legislation.

Since state laws have failed to meet the problems, since state uniformity is practically impossible, and since this law would be in line with the established policy of our government in regard to social legislation, we of the affirmative offer the plan given below for a uniform marriage and divorce law as the only logical solution of the evils of the existing system. This plan is not the result of our own hasty investigations, but it is based upon the results of years of extended study expressed in the finished reports of three sources:—

1. Frequency of provisions in the laws of various states.
2. Provisions of the report of the National Conference of Commissioners on Uniform State laws.
3. The Capper Bill introduced into the Senate on December 6, 1923. Upon the basis of the provisions found in three sources we offer this plan:

## I. Marriage Regulations.

1. No persons shall be joined in marriage without the license required by this law.
2. No license shall be issued to the following persons:—
  - a. To those under the legal age.
  - b. To those proposing marriage with a relative as near as that of first cousin.
  - c. To persons proposing mixed marriage, i. e.: of the white and any other race.
  - d. To paupers, feeble-minded, or those affected with social diseases.
3. Age limit for men without parental consent shall be 21, with consent, 18.
4. Age limit for women without parental consent shall be 18, with consent, 16.
5. At least two witnesses must be present at every ceremony beside the officiating person.
6. Application for a marriage license must be made at least ten days before the license shall be issued. During the ten day period proper publicity shall be given to the application.
7. Uniform records shall be kept to correspond with the information required by the United States Bureau of the Census.

## II. Divorce and Annulment Regulations;—

1. Causes for divorce shall be five, as follows:—
  - a. Adultery.
  - b. Desertion or failure to provide for one year.

- c. Cruelty.
- d. Habitual drunkenness.
- e. Conviction of an infamous crime.
- 2. Causes for annulment of Marriage;
  - a. Bigamy.
  - b. Fraudulent contract of marriage.
  - c. Incurable insanity of either party.
- 3. Either party desiring a divorce shall file application with the proper court official in the country and state of which he is a bona-fide resident.
- 4. The clerk of the court in which a petition for divorce is filed shall issue a summons for the defendant to appear and answer said petition.
- 5. In no case shall trial be had upon the petition within 60 days of the filing of the suit.
- 6. Upon the granting of a divorce an interlocutory decree shall be entered for one year, and until such decree shall become final neither party may marry another.
- 7. Care of the children in case of divorce or annulment, shall be given to the mother unless in the judgment of the court, she is unfit for such care.

### III. General regulations..

- 1. Enforcement of this law shall be in the hands of the state courts, having and exercising concurrent jurisdiction with the federal court.
- 2. Any person or persons who shall violate any

provision of this act shall upon conviction, be punished by a fine of not less than \$100 or more than \$500, or imprisonment for not more than one year, or by both such fine and imprisonment.

3. Any action regularly consummated under the provisions of this law shall be considered legal in any and all of the several states.
4. Nothing in this act shall be construed to limit the power of Congress effectively to meet new or changed conditions or to limit the power of the states in any matter relating to marriage and divorce not covered by the provisions of this law.

We of the affirmative believe there are several good reasons for contending that this proposal is the logical solution of this problem.

1. Congress becomes the unifying and co-ordinating agency in marriage and divorce legislation.

2. This law does not take any power away from the states. It merely makes their efforts at reform effective by adding to them the power of the federal government.

3. It affords a practical basis for putting a national uniform law into operation.

In brief the case of the affirmative up to the present is this: The first affirmative speaker has shown that conditions demand a change in our present marriage and divorce laws. I have shown that the enactment of a uniform national law is the logical way to meet the



evils of the existing laws because state laws have failed, state uniformity is impossible, and this law is in line with the policy of the federal government in regard to social legislation.

Furthermore, I have presented a plan for a uniform national law which we believe can be put into operation. The third affirmative speaker will show that this is a practicable, workable plan.

**Third Affirmative, Miss Dorothy Warner**  
**Eureka College**

Thus far in the debate, the affirmative has made clear that the evils existing under our present marriage and divorce laws demand a change. To bring about this change, the affirmative has outlined a workable plan, which will put into operation a uniform marriage and divorce law. In completing the case for the affirmative I shall show that this plan is practicable; that is, capable of meeting the evils as outlined by the first speaker.

A national uniform marriage and divorce law is practicable, because it eliminates the evils resulting from the evasion of the law in regard to contracting marriage. We have already pointed out the differences that exist among the states in regard to the marriageable age. When neighboring states have such differences, people are bound to migrate into the state of laxer laws, in order to be legally married. A uniform marriage and divorce law will remove this evasion of state laws, by making the marriageable age in one state the

same as in every other state. No longer will the marriageable ages in Georgia and Florida be fourteen and twenty-one respectively, but they will be identical, and at the age proposed in our plan. The same will be true of Illinois and Iowa. Yes, of every state in the Union.

Under the plan we propose for a uniform marriage and divorce law, the marriageable ages will be eighteen for girls and twenty-one for boys—sixteen and eighteen with consent of the parents. The evil of child marriages which is prevalent in many of our states would then be eliminated. The idea that children can be married before they become wage-earners is absurd. Since the ages in our plan harmonize with other social legislation and eliminate the evil of child marriages, we believe it is practicable.

A national uniform marriage and divorce law is practicable because it removes the difference in laws among states as to who may be legally married. We have shown that inter-racial marriages are permitted in some states, and prohibited in others. Then, too, there is a diversity in state laws in regard to the marriage of first cousins. Our uniform law will remove this difference. It also definitely states that paupers, feeble-minded, or diseased persons shall not be allowed to marry. It is for the welfare of the human race as well as for the individual that such a provision is included. Remember that under present conditions we have no provisions, and we can make none, which will prevent people of illegal age in Florida from going into Georgia and becoming legally married. The same fact holds true in regard to inter-racial marriages, marriage of first cousins,

and marriage of persons physically unfit for such a contract. Therefore, since a national uniform marriage and divorce law will remove the evils caused by the evasion of law in regard to contracting marriages, we believe that such a law is practicable.

In the second place, we believe a national uniform marriage and divorce law is practicable because it will remove the evils caused by the evasion of the law in regard to securing a divorce. We have shown that there is a wide diversity in state divorce regulations. This brings about present conditions, in which we are confronted with the problem of migratory divorce. How can it be different when the state of New York has two causes for divorce, and its neighboring state, Connecticut, has ten causes? How can it be different when South Carolina grants no divorce, while North Carolina has five causes? Ladies and Gentlemen, under the operation of a national uniform law the causes for divorce in North Carolina will be identical with those in South Carolina, and evasion will be impossible.

Then, too, there is a great difference in laws among the states in regard to the time that must elapse between the granting of divorce and time for re-marriage. This brings about the problem of hasty marriages in which a person may be divorced in Iowa to-day, and married in Illinois to-morrow. This act is in violation of the laws of many states and can easily be solved by a uniform law. By the enforcing of interlocutory decrees of one year duration, hasty marriages after divorce will be forestalled. Thus, we believe, a national uniform marriage and divorce law is practicable be-

cause it will remove the evils caused by the evasion of the law in regard to securing divorce.

No doubt the negative will say that mere uniformity will not make a law practicable; will not meet the real evils of the marriage and divorce problem. But what are the evils? They are the evil of the marriage of the socially unfit, the marriage of children, the evil of migratory marriage, the inter-marriage of races, the evil of migratory divorce, with its resulting laxity. Of course, some of the states have met these problems, but many of them have not, and have, in fact, shown an utter indifference toward them. For the United States then, the marriage problem is a problem of varying standards. What the affirmative proposes is to take the universally accepted standard for good marriage and reasonable divorce, and make it the standard of the whole nation, and we contend that the establishment of that standard will be a long step toward curing the crying evils of the marriage and divorce problem of to-day, as it exists under the present varying state laws.

For a third reason, we believe a national uniform marriage and divorce law is practicable. It is a permanent solution to the problem. State legislation has failed, as my second colleague has clearly shown. Also, state uniformity cannot be successful since one state could easily upset the uniformity by repealing or amending its laws. The logical permanent solution to the problem is to adopt a law which has been carefully and scientifically worked out to suit the people's needs, and one which will be clearly stated, strictly enforced,

and identical in every state. No evasion will then be possible. The problem of migratory marriage and migratory divorce, inevitable under diversified laws, will then be solved. We of the affirmative have shown that we are offering a needed, a logical, a permanent solution to the marriage and divorce problem.

Finally, we believe a national uniform marriage and divorce law is practicable because it will prevent the threatened dissolution of the American home. The rate of divorce has increased alarmingly during the last few years. Statistics from the United States Bureau of Census Report show that there were fifty per cent. more divorces in 1922 than in 1906. Latest reports show that that record has been doubled since 1922.

Divorce is the mercury in the thermometer of marriage; the higher the divorce rate rises, the less binding is the marriage vow, and when the mercury mounts to the point of divorces being granted at the rate of one every four minutes throughout the year, is it not time to be alarmed, and to get a cure as quickly as possible?

Edward Alsworth Ross, Professor of Sociology at the University of Wisconsin, says: "It has been calculated that if the movement toward divorce continues at its present velocity, in forty years one marriage in four will end in divorce, and in eighty years, one marriage in two! We must make a vigorous effort to lessen the number of bad marriages, if we expect to save the home."

The home is the foundation of all government. Especially is this true of such a democratic government as ours, in which the people in the homes actually gov-

ern the nation. If a storm were to sweep over this city to-night, and destroy one out of every seven houses, we would be alarmed at the destruction. There is a storm sweeping over our nation to-day, destroying as it goes not one out of every seven houses, but one out of every seven homes. . . . Homes which should have souls! This storm is divorce and has been brought on by loose marriage legislation, and breezy evasion of the lax marriage laws. We are not here to-night to condemn divorce, but to offer a remedy for the causes of it. Divorce is only the cure for bad marriage, so we of the affirmative are offering a plan to lessen the number of faulty marriages.

You should go to some court and watch the long line of people going into marriage as carelessly as calling for a ticket to the circus. Children come hand in hand, the fools rush in—anyone with a price gets by. Hear the laughter and sacrilege. Love is a lark. Where are our laws? Children of fourteen in Florida, feeling the urge to do something novel, something exciting, having exhausted every other thrill, step into Georgia and get married, knowing full well that on the morrow they can be relieved of their bonds if they prove irksome, by merely giving non-age or incompatibility as an excuse. Statistics show that marriage to-day is a transient vow easily broken by divorce, and mended by taking another vow. How can we have any respect for that which is so lightly taken? The movement toward easy and much marriage is a backward one, and must be halted, or the American family will be a collection of step-brothers and step-sisters, with several fathers and

mothers, no regard for any of them, and no respect whatever for that divine institution, the home, upon which the nation's strength depends. A national uniform marriage and divorce law will stabilize marriage by preventing marriages which should never be, thereby saving the American home from the disintegration which is now threatening it.

The logic of the situation points to one conclusion. The present system of state regulation is defective. State control is inadequate while on the other hand, a national uniform marriage and divorce law, as proposed by the affirmative, is the logical solution, because federal control will eliminate the evils of the present system.

Therefore, because it remedies the evils of present conditions, and does so permanently, and because it saves the home from dissolution, we believe a national uniform marriage and divorce law is practicable.

In closing, let me briefly summarize the position the affirmative has taken in this debate. The first speaker showed that present conditions demand a change in the handling of the marriage and divorce problem. The second speaker showed that a uniform marriage and divorce law is the logical way to meet these conditions, and presented a desirable plan, worked out on a sound basis of the needs of the people, and using conclusions of eminent authorities upon which to base the plan for a uniform law. Finally, we have shown that such a national uniform law is practicable, because it eliminates the evils of the present system, is a permanent solution to the problem, and saves the American home,

Therefore, we believe Congress should enact a national uniform marriage and divorce law.

**First Affirmative Rebuttal, Miss Elizabeth Mayes  
Eureka College**

The first negative speaker has devoted practically all of her time to an attempt to prove to you that the numerous evils of our state marriage and divorce laws pointed out are not actually existent. She has stated that the evils which I set before you are quite exaggerated, and not as serious as I have pictured them. We are very sorry that we have to paint the marriage and divorce laws with such seriousness, and with such dark colors, but we are painting them and presenting them to you exactly as they exist to-day, for these are facts that I have set before you to-night. The negative cannot answer them by shouting in alarm that they are exaggerated.

In the first place the negative contends that conditions as to the variation in marriage laws have been exaggerated. The figures which I gave you concerning the marriageable age were taken from the Chicago Daily News Almanac for 1926. Here they are: Five states have a minimum marriageable age of 12 years for girls, nine states 14 years, eight states 15 years, eleven states 16 years, while only nine states require an age of 18 years. The marriageable age for boys is just as low in comparison. We submit that this wide variation and these low standards in the marriageable age constitute a serious enough problem without any



exaggeration. We do not need to exaggerate to establish the existence of a problem serious enough to demand federal action.

The negative has further stated that migration does not exist in an amount great enough to constitute a serious evil. It has not been our purpose to show that there has been a wholesale amount of evasion, but merely to point out that opportunity for evasion exists and that this opportunity is being used to advantage. Now since the diversity of law between Indiana and Kentucky is being used as a cause for evasion along their borders, isn't it just as probable that the same situation exists elsewhere? In order to remedy this situation we maintain that uniform marriage laws are necessary. Let me point out a typical example of migration between continuous states.

The state of Nebraska has passed a law requiring individuals who desire to get married to apply for a license several days in advance of ceremony. As a result, those who wish to avoid publicity merely go over into Iowa, secure a license and marry that day. If we examine the records of the county clerk of Council Bluffs, Iowa, we would find that during the past year over 3,000 licenses have been granted to Nebraskans. Before this law was put into effect in Nebraska the records in Council Bluffs showed at the highest point only 150 licenses to people from Nebraska.

Think of it, Ladies and Gentlemen, over 3,000 licenses have been granted to people who have come to one Iowa city to evade the law of their native state. If we had a uniform law it would be useless for Nebras-

kans to go to Iowa. Uniform law would remedy the situation.

The first negative speaker has told you that the states that have no law against inter-racial marriage is no cause for alarm, for in those states the problem does not exist. Our opponents have absolutely disregarded the fact that a single state does not stand alone, but that it has border lines and that there are states living right next to them. If Maine and Washington were separated by uninhabited prairies, it might not be necessary to have a uniform law, but since we have a group of forty-eight states with thriving populations and contiguous borders, there is a necessity for a uniform national law.

We grant that inter-racial marriage is a local problem, and that many states do not face the evil of marriage between races, but where contiguous states, one with the race problem and the other without it, have varying laws, it is evident that this becomes an interstate problem and one suitable for federal legislation. Even though some states do not have this trouble there are enough that do to justify such a law.

The first negative speaker has contended that present social conditions are largely the cause of the present instability of marriage. We grant that the present instability and large divorce rate is partly due to natural social conditions resulting from the social and economic emancipation of woman. But we maintain that a carefully worked out uniform law will help the country to adjust itself to this changed condition. In fact, this very change in the social position of woman is one of

the great factors in causing the conditions demanding a uniform law. That this statement is true is shown by the support given the national uniform marriage and divorce law by such organizations as General Federation of Women's Clubs, National Congress of Parent Teachers, National Federation of Business and Professional Women, Women's Christian Temperance Union, and American Association of Home Economics. All of these endorse such a national uniform marriage and divorce law. This shows that the emancipated women themselves, about whom the negative have talked so much, look upon a uniform national law as the best solution of our marriage and divorce problems.

The entire argument of the first negative speaker has been that the evils of the present system have been exaggerated. However, I believe that I have proved to you that uniform marriage and divorce laws are necessary when I have shown you how, because of diversity of state laws great opportunity is offered for evasion of law, and that this evasion is being taken advantage of to such an alarming extent that the problem can only be handled by federal action.

**Second Affirmative Rebuttal, Miss Elizabeth  
Stubblefield, Eureka College**

The second negative speaker has said that a uniform federal marriage and divorce law is undesirable for four reasons.

In the first place she contends that the uniform law

would check progressive legislation of the states because the new law would break down the higher laws of some states. But would it? As our laws stand to-day the good laws of one state are easily evaded by a couple going into a state of less wise laws. If anything would stop progressive legislation, certainly it would be this inability of the states to control the interstate aspect of the marriage and divorce problem. Uniformity would rather tend to encourage progressive legislation by assuring the states that their good laws could be successfully enforced.

My opponent cited Nebraska as an example of progressive state legislation. But what has happened to Nebraska's progressive laws? Nebraska was the first state to come out courageously for the Capper Amendment. But last year that part of the Nebraska law which provided that an application for a marriage license must be made ten days in advance of its issuance, was repealed and by the same legislature which passed it. And I'll tell you why. When eloping couples found that they were no longer to be permitted to marry in haste and given the opportunity to repent as hastily, they went in hordes to Iowa and Kansas where the laws were less strict. So the marriage license clerks and the marrying parsons and the jewelers made a political fight of it. The last named, in convention, sent a petition to their legislature. "Why," they asked, "should Iowa and Kansas be allowed to take our rightful trade away from us?" The state was losing thousands of dollars by this law, and it was repealed. Since it was not national it could be evaded by a jaunt into neighboring

states and it was therefore ineffective, socially and commercially. Thus we find that the present variation in our laws is a far greater check upon progressive state action than any uniform law could possibly be.

In the second place, we are told that a uniform national law is not desirable because it would not relieve the real evils of the marriage and divorce situation. Although this law would enlarge the grounds for divorce in two or three states, it would at the same time adjust the differences in the other forty-five states and bring them all to a common point of understanding, one which will permit justifiable divorce and do away with the migratory divorces and with the many injustices which they often bring about. Since a uniform law will remedy this situation it would be desirable.

In the third place, the second negative speaker says that a uniform law would develop new evils. The negative lists evasion as a new evil, supporting the claim by contending that a uniform law would be strict and cause the young couples to evade the law. Do we believe that because of the stringency of a law we should not adopt it? If we refused to enact a law because we feared it would be evaded, I fear we would have few laws on our statute books. Certainly upon this theory we would reject all our present criminal laws. This objection is obviously false.

As another example that a uniform law would not create new evils but would prohibit real evils I will quote Mrs. Edward Franklin White, who is Vice-President of the General Federation of Women's Clubs. Mrs. White says that official records of institutions

for deaf and feeble-minded show that the greater majority of inmates are the offspring of the marriage of first cousins. Nineteen of our states permit such marriage but a uniform law would not permit any such marriage and it would therefore, remedy this great evil. It would also cut down national expense and the number of national dependents.

The outstanding evil of the present divorce laws is that they carry no speed limit. We fix a speed limit on automobiles to avoid the wrecking of lives. Why do we not do the same in respect to divorce? A uniform national law would check the number of divorces by preventing the marriage of people who are incapable of setting up and maintaining a home. "For so long as society continues to produce people unfit and incompetent for marriage . . . divorce is the only relief," says Judge Brown of Grand Rapids, Michigan.

Again, the intervening period between the application and the issuance of a license provided for in the uniform national marriage and divorce law will prevent the evil of boys and girls under age being married.

In my own experience I know of a case of a young man under age who pasted the number of twenty-one in the bottom of his shoes and when he was asked his age, he told the official at the license window that he was over twenty-one—which was perfectly true, but an evasion of the law. Thus he was married before his parents had time to know of his elopement. If proper publicity could have been given the application, this hasty and probably regrettable marriage would have been prevented. Hence, we believe that a uniform law

will not create new evils, but that it will cure the existing evils.

In the fourth place, the second negative speaker asserts that a law such as we propose would be another step toward centralization of power in the federal government. Such an argument does not in any way deny that the marriage and divorce laws should be uniform among the states. In fact, by implication, we may infer a tacit acknowledgment at least on the part of the propounder of such an argument that he is not opposed to uniformity itself, but merely to delegation of absolute power to the central government.

In the case of the uniform laws governing bankruptcy, the states found their laws ineffective, so they surrendered the right to Congress to make uniform law on that subject.

Much of the negative argument about the tendency toward centralization of power is entirely beside the point, for the simple reason that we do not propose to deprive the states of their power at all. We simply propose that Congress shall become a coordinating legislative agency to aid in solving a serious problem . . . marriage and divorce. We merely propose to extend federal power and not to take away state power. We merely propose that Congress shall be given power to set up a uniform minimum standard below which no state can go. Within the limits of this minimum standard the power of the states will be untouched, for our plan provides for concurrent enforcement.

Therefore, we believe that the affirmative has shown

that a uniform national marriage and divorce law is desirable for four reasons:

1. It would not check progressive legislation of states.
2. It would relieve the real evils of the situation.
3. It would not create new evils.
4. It would be in harmony with the principles of our federal government.

**Third Affirmative Rebuttal, Miss Dorothy Warner  
Eureka College**

I believe you will agree with me, Ladies and Gentlemen, that my two colleagues have successfully met the first two contentions of the negative; first, that uniform national law is not necessary, and second, that such a law is undesirable.

It remains for me to answer the contentions of the third negative speaker, that a uniform marriage and divorce law is impracticable. First, she contends, its provisions can not apply to all sections of our country, and reminds us that many ignorant foreigners come to our shores who are not ready for such legislation. Shall we allow such people to lower our marriageable age? Rather we should try to help them by the establishment of a correct marriageable age. Marriage and divorce is not a local problem. Let us consider a typical section of the United States, comprised of a number of states in which the organization of society is very similar, as a result of a common religious and social influence, that of Virginia, North Carolina, Kentucky,



and Tennessee. An examination shows that there are twenty-two grounds for absolute divorce recognized by one or the other of the four states. Of these twenty-two grounds, only two are common in the four states. Of the remaining twenty grounds but two are common in three states. Are the differences between the societies of Virginia, North Carolina, Kentucky and Tennessee so great as to demand such variance in their laws? Obviously not. These variations are not due to unchangeable local conditions, but to careless, indifferent legislation.

The third speaker of the negative has emphatically stated that the law cannot regulate climate. No! Nor are we proposing to make it warmer or colder by a uniform marriage and divorce law. But we do believe that the provisions in our plan apply to all sections of our country. Surely a difference in climate is a negligible factor in the maturing of children in such a compact area as the United States. Concerning the prohibition of marriage to feeble-minded, diseased, and paupers, surely these prohibitions cannot be connected with any one locality. A man may be feeble-minded whether he lives in New York City or in Pumpkin Center. As to the five causes for divorce, not one can be said to be dependent upon local conditions. Therefore, we still believe that our uniform marriage and divorce law does apply to all sections of our country.

As a second argument against the practicability, the third speaker of the negative stated that no satisfactory method of enforcement can be found. Against our plan of concurrent enforcement, she has said that concur-

rent enforcement as practiced in the Eighteenth Amendment has been an absolute failure. Now we are not willing to admit that prohibition has failed. In fact, in the debate this year on that question, it has been voted again and again that the Eighteenth Amendment has been successful. However, no one has a right to cite such a recent provision, for only time can prove the effectiveness or failure of such a law.

But concurrent enforcement is not a new thing as the negative would have you believe. In certain fields such as taxation, public improvement, education, etc., the state and federal governments have always exercised concurrent jurisdiction. This concurrent power was especially stated in the Eighteenth Amendment to negative any idea that the jurisdiction of the states over the liquor problem was thereby nullified, and likewise in our plan we provide concurrent power to preserve the power of the states in all respects not contrary to the provisions of our uniform law. Confusion cannot come from this concurrent power now, as it has never come from similar concurrent jurisdictions already existing.

As a third argument against the practicability of a national uniform marriage and divorce law, the third speaker says it would encumber the federal government beyond its power to administer law effectively. For more than a hundred years the federal government has been handling problems more difficult than the one we are considering. If the federal government can go into the states and afford aid to the individual farmer; if it can insure the purity of every article of food manu-

factured within the state; if it can carry parcels and take care of our surplus earnings, surely it would not be encumbered by a national uniform marriage and divorce law.

After branding our plan as impracticable, unsatisfactory, and cumbersome, the final blow the third speaker strikes is taken from the past—for she says that similar attempts have failed and to prove her point, gives as the only two examples, the Fifteenth and Eighteenth Amendments. The analogy drawn by my opponent between our law and the Fifteenth Amendment is, as you will see, rather far-fetched. Can you see any similarity in these two problems? The Fifteenth Amendment is that of a few southern states, hating a down-trodden race, in every possible way preventing the members of that race from a right to vote. On the other hand our plan deals with a problem which concerns every state in the union—which, if not met effectively, will disintegrate the family life—a problem which we propose to meet by setting up the universally accepted standard for good marriage and reasonable divorce as a standard for the whole nation. Surely there is a wide gulf between these two problems; both as to province and provisions.

Therefore, the assumption that a uniform marriage and divorce law will be nullified as has the Fifteenth Amendment, is untrue, for the analogy breaks down completely. As I have already shown, any time spent on the Eighteenth Amendment is wasted, since such a recent law cannot be used as proof. Therefore, we find no similar attempts that have failed, since the two

analogous examples offered by the negative break down under close examination.

In any sort of debate, it is always wise to assume that the audience, as well as your opponents are seriously seeking for the truth. So believing that you, Ladies and Gentlemen, and that our opponents, are desiring the real truth, allow me to present the facts in this case. The deplorable situation has been presented to you. Divorce, that dread indicator of bad marriage, has been increasing rapidly until statistics show that one out of every seven marriages ends in the divorce courts. The forty-eight states are bound by widely varying marriage and divorce laws so loosely that the citizens get tangled up in them whenever they move; so that a man's marriage or bigamy depends upon a geographical line. This difference in law permits of wide-spread evasion, and, a worse thing, this very evasion has a lowering effect upon the moral tone of the citizens, since evasion leads to disrespect for all law. Should we allow such conditions to continue? No. I believe you will agree with me that conditions do demand a change.

The affirmative has offered a plan, carefully worked out to meet every condition, and containing provisions necessary to prevent bad marriages. These provisions are based on results of scientific study and research which have proved that prohibition of inter-racial marriages, marriages of paupers, feeble-minded, first cousins and those physically unfit for such a contract is for the good of society as well as for the welfare of the individual.

By adopting a national uniform marriage and divorce law, the evils of the present situation can be eliminated, for evasion will be impossible, bad marriages will be prohibited, and thereby the American home will be saved from its threatened dissolution.

Therefore, we believe that Congress should enact a national uniform marriage and divorce law.

**First Negative, Miss Vivien Ingram  
Eureka College**

The speaker who has just left the platform has spent a great deal of time showing you how many varieties of laws we have and what great opportunities for evasion exist. But, Ladies and Gentlemen, it is her duty to show you that actual evasion does exist and that the evils of the marriage problem result from this variation, and the resulting opportunity for evasion. Let us make it clearly understood in the beginning of this debate that it is not sufficient for the affirmative to show that variation does exist in our marriage and divorce laws. It is their duty to show you that a sufficiently large evasion results from this variation to demand federal action. Moreover, they must show clearly that the so-called evils of our present marriage problem, the evil of a rapidly increasing divorce rate, the evil of marriage of the unfit, the evil of the broken home, are a direct result of this evasion. Finally, they must show how a federal uniform law would remedy these evils if they do exist.

We of the negative admit there is considerable varia-

tion in the marriage laws of the several states. But we do not admit that the conditions resulting from that variation are serious enough to demand such a radical change as that proposed by the affirmative. In support of this stand we will offer three contentions:

First, conditions as to variations in marriage laws have been exaggerated; second, the lack of uniformity in divorce laws is not a serious evil; and third, present social conditions are largely the cause of the present instability in marriage.

In the first place, conditions as to variations in marriage laws have been exaggerated. For example in marriageable age there is not a great variation, for thirty-seven states require a man to be twenty-one before he can be married without his parents' consent and the remaining eleven states require that he be eighteen years old to marry without his parents' consent. As for a girl, she has to be twenty-one years old in ten states, eighteen in thirty-four states, and sixteen in fourteen states before she can be married without her parents' consent. These statistics are taken from the Chicago Daily News Almanac for 1925. If our young people have to be these ages before they may marry without parents' consent, how would a uniform law improve the situation? In but four states do we have an age limit below that of the legal majority for a girl, namely eighteen, and in but eleven states do we have an age limit below the legal majority for boys. Therefore, in regard to marriageable age, variation in itself is not wide enough to demand federal action.

The affirmative have further pointed out the great

opportunity which exists for migrating marriages, on account of the variation in age limits in the laws of the several states. Now it is apparent that its results can not be serious with the age limits established as they are by the states. The age limit for girls would be changed in but four states by any uniform law advocated by the affirmative, and in but eleven states for the men. Who can claim that that is sufficient variation to warrant federal action? But as we have said before, the affirmative must show that actual evasion of the marriage laws as to age limits by migration from state to state does exist in an amount great enough to constitute a serious evil. This they have failed to do.

In regard to the problem of inter-racial marriage and the variations of our laws in that respect which seem to trouble our opponents, we must remember that only in certain localities do we have an inter-racial problem and in states where such an evil exists we find a prohibition law already in existence. It goes without saying that any state that has a large element of the black or the yellow races is anxious to prevent inter-marriage with the white race. The action of the Pacific Coast states with regard to the Japanese and Chinese, and of the southern states with regard to the negro is sufficient evidence of that.

What incentive is there for pressing a campaign to eradicate a non-existent evil? The fact that states have no laws against inter-racial marriage is no cause for alarm, for in those states the problem does not exist. We have legislation where it is needed. It is evident,

therefore, that the conditions resulting from variation in our marriage laws are not serious enough to demand federal action.

In the second place, the lack of uniformity in the divorce laws is not a serious evil, for the variations in causes of divorce are not nearly so wide as the affirmative would have you believe. Census reports for 1925 show that eighty-eight per cent. of all divorces are granted on four grounds: adultery, cruelty, desertion, and drunkenness, and these four causes appear in virtually every state, South Carolina and New York being the only exceptions. Adultery is the cause for divorce in forty-seven states, cruelty in forty-three states, desertion in forty-seven states and drunkenness in thirty-seven states.

According to these statistics, therefore, variations in causes from state to state can be held responsible for but twelve per cent. of our divorces, a small figure when we take into consideration the widely divergent, economic, social, racial, and climatic conditions of our country. Is it logical to demand a uniform law when but twelve per cent. of the divorces are due to existing variations in state laws?

Moreover, the lack of uniformity in divorce laws is not a serious evil, for migratory divorces are not as common as they appear to be. This statement is borne out by statistics from the United States Bureau of Census for 1923. They show that sixteen and one-tenth per cent. of the total divorces are granted to migratory residents. The remaining eighty-four per cent. are granted to actual bona fide residents of the states themselves,



and it is possible to show that a part of these persons do not migrate definitely for the purpose of divorce. In fact, the migration of most of them may be accounted for by the general movement of population which takes place for economic reasons not connected with the question of divorce. For example, in regard to general migration—in 1920 according to the census report twenty-two and one tenth per cent. of the native born were outside the state in which they were born, which proves that migration is natural, and any statistics on the matter can not prove that migration was for the express purpose of divorce. We find, therefore, that the so-called evil of migratory divorces is far less important than the affirmative would have it appear.

In another respect the affirmative have given undue importance to variation in the divorce laws. Legal entanglements have been very greatly exaggerated. As a matter of fact, these entanglements are mostly thoretical and where they do exist are in some way connected with one of four states, South Carolina, Pennsylvania, Wisconsin, or New York. These are the only states that refuse to give full faith and credit to the marriage and divorce laws of the other states. We challenge our opponents to produce one case of legal entanglements in marriage or divorce that does not in some way involve these four states. Unless they can prove this, we must conclude that the problem of legal entanglements is comparatively limited, and that it would be absurd to pass a uniform law to take care of four states out of the forty-eight.

Now, I believe we have shown you that present con-

ditions in marriage and divorce are not due to lack of uniformity. We will now show further that present social conditions are largely the cause of the present instability of marriage, and that this is merely a time of re-adjustment to the social changes that have taken place in the last fifty years. Woman in the last fifty years has come into a new freedom of Christian civilization, and will not longer endure the unspeakable indignities and hopeless sufferings which man has compelled her to endure in the past in marriage relationship. At last outrage upon a chaste wife and faithful mother, enforced physical union with a husband and father whose touch is pollution and whose heritage to his children is disease and death, will no longer be endured by individual or social morality. Man has not yet adjusted himself to this independence and new right of woman, and the result is divorce. Woman is to-day a legal voter throughout the nation. Woman is economically independent. Woman is free to enter any profession on an equality with man. Woman is socially independent and actually man's equal in the eyes of the world.

This rapid emancipation of woman from the social and economic bondage of fifty years ago has been a terrible shock to our marriage system. Man has not yet adjusted himself to the change nor has society. But the problem is one of adjustment and not one of law. No law, uniform or otherwise, can change these incontrovertible social and economic changes. The states are adjusting themselves and are meeting the changed

conditions. A uniform law in face of these facts would be helpless, hopeless, and in a short time would become an anachronism.

We have shown, Ladies and Gentlemen, that present conditions do not demand such a radical change in our marriage and divorce laws. We have shown you this from three standpoints: First, that conditions as to variations in marriage laws have been exaggerated, for there is slight variation in the marriageable age, and no resultant migration from this, and that the inter-racial problem is sectional and that we have legislation where needed; Second, that the lack of uniformity in divorce laws is not a serious evil, for the variation in causes for divorce is not great, eighty-eight per cent. of all divorces being granted for four causes and all of these being causes in a majority of states. We have proved that migration is not a result of variation in the laws. Furthermore, we have shown that lack of uniformity in divorce laws is not an evil as far as legal entanglements are concerned, as they are confined to four states and most of them are theoretical possibilities. And in the third place, marriage and divorce conditions are a natural result of the rapid social and economic changes that have taken place in the last fifty years, and that no law, uniform or otherwise, can change these conditions. Therefore, we of the negative contend that there is no need for such a radical change in our marriage and divorce laws.

My second colleague will prove that a national uniform marriage and divorce law is not desirable.

My third colleague will conclude the case of the negative by proving that a national uniform marriage and divorce law is impracticable.

**Second Negative, Miss Edith Frazier  
Eureka College**

MR. CHAIRMAN AND FRIENDS:—My colleague has shown that present conditions in the United States do not demand such a radical change in our marriage and divorce laws as that proposed by the affirmative. In continuing the case for the negative, I will show you that uniform national control of marriage and divorce is undesirable for four reasons:

In the first place, uniform national control of marriage and divorce is undesirable because it would check progressive legislation in the states. Many of the states have felt a need for a marriage and divorce law which would fit their needs and so by various laws, they have helped to solve their problems by their own plans.

Nebraska is one of these states that has forged ahead in ironing out the wrinkles of divorce by her own individual methods. A uniform marriage and divorce law worked out and enforced by the federal government would tend to put an end to the state progressiveness in Nebraska. "What would be the use," Nebraska would say, "in working out a solution to the marriage and divorce problem, when the national government would merely lay down another law, more strict in some respects and more lenient in others and laws that

would not meet the local needs?" If you kill this tendency toward progress, you will stint all initiative in caring for such local problems. Mrs. Genevieve Pankhurst, of the General Federation of Women's Clubs, in an article in the *Pictorial Review* for February, 1926 after extensive investigation has pointed out a number of states that have worked out new marriage and divorce laws which have benefited their conditions. Wisconsin, one of the most progressive, has established eugenic laws to take care of her local problem. Seven other states have made a definite step in forging ahead on their problem of marriage and divorce. Missouri, Oregon, Vermont, Georgia, Michigan, Wyoming, and Virginia all have new state laws that are improving the marital conditions. If you apply a uniform marriage and divorce law against their wishes, you will destroy the benefit derived from their pioneering and past experimentation in working out state conditions. Therefore, we see that a uniform marriage and divorce law would be undesirable because it would check progressive legislation in the several states.

In the second place, a uniform law would not be desirable because it would not relieve the real evils of the marriage and divorce situation, in that federal attempts can not reach the real evils. The marriage of persons with diseased minds and bodies, and those of low mentality should be stopped along with inter-racial marriage, marriage of paupers, hasty marriages, and the marriage of children. But how? A uniform law would certainly not be the means because a uniform law could not include provisions against all of these problems.

If it did, it would be impracticable for the federal government to try to administer the many minute provisions, which these prohibitions would bring up. A uniform federal law could not be passed compelling every person to have a physical examination before marriage, or to have a financial examination to determine whether he was a pauper. If these laws were made too general, we would find that the interpretation would be liberal or close as the court desired with a resulting nullification of the intent of the law. On the other hand, minutely defined laws would be an absurdity because of the practical impossibility of administering them.

A uniform marriage and divorce law may be theoretically possible, but when you try to make a practicable application of it, it fails miserably. Therefore, we agree with Judge Marshall of Indiana who says, "Divorce is the result of intolerable marriage, and its correction must come through education alone."

And finally one of the most serious phases of the marriage and divorce problem to-day, as my colleague has pointed out, is the instability resulting from the social and economic emancipation of woman. This factor has probably had a greater effect in accelerating the divorce rate than any other one thing. It is patently absurd to maintain that a uniform law can remedy this situation. As my colleague has pointed out, the states themselves are meeting this situation as rapidly as it is possible to meet it. No amount of uniformity could affect it in the least.

And so in view of the inability of mere uniformity of

law to meet the real troubles of the marriage and divorce problem, the marriage of the socially unfit, the problem of hasty marriages, and the problem of instability resulting from the social and economic emancipation of woman, we maintain that uniform national control of marriage and divorce is undesirable.

In the third place a uniform law is undesirable for it would tend to develop new evils. People of unmarried age would evade the law even as they do now. There would be just as much evasion of the law, if not more, if the marriage age were uniform. This is shown clearly in the case of two hundred and forty-eight child marriages studied in a survey made by Mary E. Richmond and Fred S. Hall for the Russell Sage Foundation of New York and reported in their book *Child Labor*.

"Over one-half of the licenses were illegally issued and in two-thirds of the cases parental consent was not given where parental consent was required by the law." A uniform age limit could not prevent this evasion. The real solution of the problem is not to establish new laws, but to enforce the ones we have. They conclude the whole survey by saying: "The good administration of laws already in existence seemed to us more important than the enactment of new measures."

In another respect we may expect a new evil to arise. The purpose of this uniform law is to make the laws more stringent and thus cut the rate of divorce. They will have effect as far as stringency is concerned on about ninety per cent. of the states. Judge Riland W. Baggett of Dayton, Ohio, says in an article in *Good*

*Housekeeping* magazine for May, 1925, in regard to restricting divorces: "Assuredly, I would not have it made more difficult because that would not improve morality. See the State of New York which circumscribes divorce by permitting it on but one ground, yet will anyone say that the morals of New York are better than those of Ohio?" You say our uniform law will not need to be strict. Yes, but we are practically uniform on major causes for divorce now, as my first colleague has shown you. If a uniform law does not go further than the laws in existence in a majority of the states, why should we enact it? To tighten up on the minor things in different localities will have nothing more than the bad effects of resulting evasion.

It is, therefore, evident that we can not improve conditions by enacting more stringent provisions than we have at present, for it would merely result in new evils, without reaching the real troubles of the problems under existing conditions.

Now, let us consider the matter from a national view point. The proposed national uniform law is undesirable, in the fourth place, because it is but another step in the centralization of powers in the federal government. One of the most alarming tendencies of our day is the tendency toward shifting to the federal government the responsibility for remedying every evil, large or small, local or national, that exists in the country. This tendency has aroused nation-wide opposition, and has aroused even so conservative an advocate of strong central government as President Coolidge to utterance against it. In his Decoration Day address at Arlington



Cemetery he said: "Our country was conceived in the theory of local self-government. It has been dedicated by long practice to that wise and beneficent policy. It is the foundation principle of our system of liberty. Its preservation is worth all the efforts and all the sacrifices it may cost."

It is because we of the negative believe that the proposal of the affirmative is in direct violation of this principle of local self-government that we are opposing it to-night. It would take away from the states that most priceless heritage of the states, the control of the individual, and place it in the hands of the federal government. The states are being asked to surrender another power to the federal government, namely the right to control the marital relations of their citizens. With the Honorable Mr. Fitzgerald of New York, representative in Congress, we protest against "a movement which if continued and not stopped means an entire change in our system of government, a practical subordination of state and local government, if not the elimination of local self-government in this country, and the building up of a great federalized central government which, I believe, to be the greatest menace to this country."

Because, therefore, this proposed uniform national control is but another step in the centralization of power in the federal government we oppose it as being undesirable as a solution of the marriage and divorce problem.

For these four reasons, then, Ladies and Gentlemen, we maintain that a uniform marriage and divorce law

is undesirable; (1) because it would check progressive legislation in the states; (2) it would not relieve the real evils; (3) it would tend to develop new evils; (4) it would be another step in the centralization of power in the federal government.

**Third Negative, Miss Virginia Tannar**  
**Eureka College**

In establishing the case for the negative I believe you will agree with me that my colleagues have met squarely the first two issues laid down by the affirmative; first, do present conditions demand a change in our marriage and divorce laws, and second, is the enactment of a uniform national marriage and divorce law the best way to meet those conditions? It remains for me to answer the argument of the third affirmative speaker, to show how this law is impracticable!

In the first place uniform national control of marriage and divorce is impracticable because the provisions of a uniform law would not be applicable to the many varied sections of our country. In such a large area as that comprised by the United States it is easy to see that in some parts liberalism controls thought, and in other sections conservatism rules. In states such as New York and Illinois which are not only industrially and commercially leaders, but also centers of thought and culture, a law that would meet the needs of those states would not meet the needs of more backward districts such as Tennessee and South Carolina which are notoriously conservative.

Moreover, climatic conditions influence life. Thus the wide range of climate in the United States would make the south especially unprepared for uniform marriage and divorce laws. Richmond and Hall in a study for Russell Sage Foundation, which was quoted by my second colleague, have tabulated the following facts: "Generally speaking, the hotter the climate, the earlier girls mature. Using statistics of girls of native white parents from the ages fifteen to nineteen we found that, at the lowest temperature of the United States only seven and five tenths per cent. of the girls marry between those ages; while in the hottest temperature the percentage is seventeen and eight tenths per cent." This shows the utter impracticability of a uniform provision regarding the marriageable age.

Then, too, great numbers of foreigners who have no education, no background for such legislation, make the application of a uniform law impracticable in sections with large foreign elements. The foreign born girl marries earlier than the native born of native parents. According to the 1920 census the percentage of foreign born girls from ages fifteen to nineteen who were married averaged eight per cent. more for the whole of the United States, than the native white. In the mountain states it was ten and eight tenths per cent. more than the native white. This variation would, to say the least, render the application of a uniform law in these states very difficult.

Statistics may be quoted to show that the negro question makes such a law quite impracticable, for negro girls from the ages fifteen to nineteen married in the

United States exceed the native white girl of the corresponding age from ten to thirteen per cent.

How, Ladies and Gentlemen, can a uniform marriage and divorce law be practicable with such varied conditions existing in our nation? Congress can not legislate to control thoughts, nor can it legislate to change physical development, nor can it by law alter the effects of climate, yet all these factors must be controlled if uniformity is to be at all practicable. A uniform marriage and divorce law is utterly impracticable in a nation containing every variety of climate, numberless nationalities, and peoples from every race under the sun.

In the second place, we maintain that uniform national control of marriage and divorce is impracticable because we believe no satisfactory method of enforcing it can be found. Any possible method of enforcement would result in far greater confusion than the affirmative finds existing under the present law.

The affirmative has offered a concurrent enforcement as the most practicable method of operating their proposed law. Just how practicable this could be has been demonstrated perfectly by the concurrent enforcement of the eighteenth amendment. In states without local enforcement of prohibition laws, where all cases had to be tried in federal courts, enforcement has proved practically impossible.

United States Attorney Emory R. Buckner of New York City where there is no state enforcement law said recently: "We must have federal police courts if the federal government is to enforce prohibition." And

we would have to have federal marriage and divorce courts if the federal government enforced the proposed marriage and divorce law. How many states could we expect to enact laws to help enforce the uniform law proposed by the affirmative? The affirmative themselves have told you that twenty-five years of effort convinced but three states to enact uniform laws on marriage and divorce. Without the active support of the state then, concurrent enforcement of this law would be an impossibility, and in the light of the above mentioned fact it would be folly to expect such active support. We say, then, that no satisfactory method of enforcing this law can be found, and therefore, that it is impracticable.

In the third place, uniform national control of marriage and divorce would be impracticable because it would encumber the federal government beyond its power to administer law effectively. My second colleague has pointed out the alarming tendency toward the abandonment of local self-government, with its consequent centralization of power in the federal government. To what extent this tendency has already increased few people realize. It is an astounding fact that one of every twelve persons in our population is to-day engaged in government services of some kind. What an enormous bureaucracy this is!

If this uniform marriage and divorce law were to be enacted and enforced it would mean the addition of another bureau and the expenditure of thousands or millions of dollars more annually. The government is loaded down now with too much administration and expenditures, and the unnecessary addition of another

bureau to its burden would only be encumbering the federal government beyond its power to administer its laws effectively. President Coolidge expressed exactly this sentiment in his last message to Congress when he said: "It does not at all follow that because abuses exist, it is the concern of the federal government to attempt their reform. Society is in much more danger from encumbering the national government beyond its wisdom to comprehend or its ability to administer than from leaving the local communities to bear their own burdens and remedy their own evils."

And we believe that it was just such steps as the affirmative is proposing that President Coolidge was urging Congress to guard against. Because it would encumber the federal government beyond its ability to administer law effectively, by adding to its already heavy burden, we of the negative maintain that the proposed law is impracticable. We are unalterably opposed to encumbering the federal government until it breaks of its own weight.

In the last place we maintain that this proposed law is impracticable because similar attempts at uniform control have proved to be unsuccessful. For over fifty years the fifteenth amendment to our constitution has stood testimony to the inability of our federal government to enforce a law which sections of our country do not support. Professor Emerson David Fite, an eminent American historian, says on page 506 of his history of the United States published in 1923: "In 1877 it seemed that everything possible had been done to safeguard the negroes' lately acquired right of suffrage. In

their favor was the fifteenth amendment to the Constitution. Practically the same provision was in the new constitutions of the southern states and Congress passed various laws to regulate the same right. Yet one thing was lacking to render negro suffrage a complete success; and that was the cordial assent and sympathy of the white people of the southern states. In 1877 political conditions had become such as would have aroused consternation in the North in the days immediately after the war, for the ex-slave had practically lost the ballot."

It is well to note that a far greater number of states are opposed to the uniform marriage and divorce law than were opposed to negro suffrage. Only three states have agreed to a uniform law. How could we expect any such law then to gain wide or practicable acceptance? The lack of enforcement of the fifteenth amendment in the southern states is the scandal of the nation. I ask you, Ladies and Gentlemen, in view of this, if we can expect a uniform marriage and divorce law to be any more successful?

The confusion and graft surrounding the Eighteenth Amendment and its failures are known facts. Every day the newspapers are full of accounts of raids and arrests made for violations of this amendment. Every day men are asking: "Is prohibition American? Why Prohibition?" Every day people are wondering where this flagrant violation of the Eighteenth Amendment is leading us; yet the Eighteenth Amendment had a wide acceptance prior to its enactment. Can we expect a uniform marriage and divorce law to be practicable? No!

For we can not overlook the failure of the federal government to enforce two amendments on subjects directly similar to the proposed legislation.

Therefore, we maintain that a uniform marriage and divorce law is impracticable: first, because provisions of a uniform law would not be applicable to the varied sections of our country; second, because we believe no satisfactory method of enforcing it can be found; third, because it would encumber the federal government beyond its power to administer law effectively; and, finally, because similar attempts at uniform national control have proved unsuccessful.

In the debate this evening, we of the negative have contended that a uniform marriage and divorce law should not be passed because present conditions do not demand a change, because it is undesirable and because it is impracticable.

**First Negative Rebuttal, Miss Vivien Ingram  
Eureka College**

In opening the rebuttal for the negative let me remind you, just what burden of proof the affirmative must assume in the debate this evening. They must show distinctly that the problems of marriage and divorce arising under the present state laws are a direct result of a lack of uniformity, and that they are not a result of conditions over which a uniform law would have no control.

We of the negative have shown clearly that there are a number of the evils over which a uniform law would not have control.



Our opponents have laid much stress this evening on the fact that there is an opportunity for evasion for marriage laws because of the variation in age limits in the various states. Now I have already pointed out that the World Almanac for 1925 shows that only four states would be changed for women and only eleven for men by the law proposed by the affirmative. Is it reasonable to adopt such a radical change as that proposed by the affirmative to improve the conditions in such a few states? If any evasion does exist as a result of the opportunity for evasion, the affirmative have failed to show it. Thus they are basing their case upon an opportunity and not upon actual evasion.

Allow me to point out that the affirmative have greatly exaggerated the importance of the problem of inter-racial marriages. The fact that some states have no law against inter-racial marriages is no cause for alarm—there the problem does not exist, and the affirmative have failed to show you that an evil does exist. They have not given you a specific example. They have spoken in terms of possibilities. They must show an actual widespread evil from poor inter-racial marriage laws to establish this point.

We of the negative admit that the paupers, the feeble-minded, and socially diseased should not be allowed to marry. But we have shown how the states are experimenting with ways and means of preventing such marriages as rapidly as conditions permit. To force a uniform law upon all the states in such a delicate problem, with its many difficult details of administration would, we contend, be a serious mistake.

Another evil taken up by the affirmative is that of the marriage of near relatives. Our opponents can not point out any serious evils resulting from the lack of uniformity in this respect. They have not given any specific examples and if they will examine the World Almanac for 1925, they will find that thirty-nine states have already forbidden inter-relation marriages as near as first cousins.

Another evil emphasized by the affirmative was the present conditions of registering and reporting marriages. As a matter of fact the lack of uniformity in registering, reporting and witnessing marriages is negligible—for according to census reports for 1922 the states are practically uniform in requirements on this point. Even in 1922 two-thirds of the states required that every marriage be registered and every state required that every marriage be reported to a specific county official. Therefore, in regard to variations in our marriage laws and evils arising out of those variations, there is no cause for such a radical change as the uniform law proposed by the affirmative.

Second, we wish to take up the opportunities for evasion of divorce laws which have been stressed by the first affirmative speaker.

Our opponent seems very pessimistic in regard to the great diversity of causes for divorce. But it is our pleasure to raise that cloud of pessimism and show you that eighty-eight per cent. of all divorces are granted on grounds that appear in virtually every state. Only twelve per cent. of divorces are due to variation in causes. This twelve per cent. takes care of local prob-

lems. Why inflict these local problems on the federal government? Why be alarmed, we ask, when we are uniform on the major causes for divorce now.

In regard to the question of migration which seems to bother our affirmative friends a great deal, we must keep in mind that all migration is not for the purpose of divorce. Edward Alsworth Ross, Professor of Sociology of the University of Wisconsin, quoted by the third affirmative speaker, says that: "It is doubtful if one divorce in twenty is obtained by migrating to a liberal state," and this is borne out by census reports for 1922 which show that only sixteen and one tenth per cent. of divorces are granted to non-residents.

We agree with the affirmative that the question of hasty marriages is a serious one. But can we set the number of days that a couple shall know each other? It seems to us that a national enactment on such minute details as this would involve would be extremely impracticable.

Therefore, opportunity for evasion of divorce laws has not resulted in any serious evils.

The third point of my opponent was taken up by various other evils brought about by the present variation in our marriage and divorce laws. But she contended first that the people have no respect for our present laws. Ladies and Gentlemen, she has failed to point out in any way that the people will have any more respect for a uniform national law, than for the ones that we now have. Do the people disregard the Eighteenth Amendment? That is a uniform federal law. Before the Eighteenth Amendment the people dis-

regarded the law by going from a dry state to a wet one. Conditions in regard to disrespect are no better since the Eighteenth Amendment. The same would be true of marriage and divorce.

Another evil taken up by the first affirmative was that of moral laxity, which they claim is being encouraged under the present laws. But will not moral laxity be encouraged if we thrust an unwanted cut and dried law upon the people, in some states making their laws more stringent and in others making them more lax.

Ladies and Gentlemen, I have shown that conditions as to marriage and divorce are not serious enough to demand a change from our present laws. Moreover, I have shown that such evils as do exist can not be met by a uniform law. Therefore, we of the negative contend that Congress should not enact a uniform federal marriage and divorce law.

**Second Negative Rebuttal, Miss Edith Frazier  
Eureka College**

The second speaker of the affirmative pointed out that the enactment of a uniform national law is the logical means to meet the evils of the existing laws, first, because state laws have failed. But she did not point out in what ways these states failed, and if they had, in what ways the plan submitted by the affirmative would overcome this failure, or in any way be a more workable plan than the one we now have. As a matter of fact, state laws have not failed. My op-

ponents have not picked out any particular states that have failed, but, Ladies and Gentlemen, we can show you specific instances where the state laws have been successful.

For example, in the last few years an outstanding progress has been made in six or seven of the states in their marriage and divorce laws. Nebraska has met her problems nicely; Wisconsin has passed eugenic laws that are meeting her problem, and I could go on with others such as Missouri, Oregon, Vermont, Georgia, Michigan, Wyoming, and Virginia, all of which have forged ahead and are meeting the situation in their states. If progress has been made in these states, it only goes to show that in time every state will be meeting its local problems, problems which the federal law can not touch. Therefore, state laws have not failed and the enforcement of a federal law would put a stop to this progress that the states are making.

The second affirmative speaker also said state uniformity has failed. Of course, the effort to secure an absolute uniform state law in regard to marriage and divorce has not been a success. The very thing we of the negative are pointing out is that absolute uniformity in regard to such a complicated problem is the very thing our nation does not want. That argument by the affirmative, therefore, that a twenty-five year effort to secure uniformity has failed merely substantiates the negative claim that such uniformity is undesirable. As a matter of fact, there is already sufficient uniformity in the most important provisions of our state laws both as to marriage and divorce, in its major causes, as my col-

league has already shown you. Therefore, you can see that the uniformity already present, a uniformity in nearly all the important marriage and divorce provisions, has not helped to solve the marriage and divorce problem. How, then, could a national uniform marriage and divorce law solve it? Allow me to repeat what we have said before: the problem goes deeper than mere uniformity.

The second speaker for the affirmative stated that a uniform marriage and divorce law would harmonize with the principle of giving the central government control of such social problems. It has never been the principle of the United States to give the central government control. That would be just opposite to the principle of our democratic government.

Clarence Darrow, the famous Chicago criminal lawyer, says in regard to his opposition to giving federal government control of marriage and divorce: "The theory of the constitution is to bring government down to the locality as nearly as possible, and so take account of the manners, customs, habits, and religion of the various members of the state. Every community should have a government which conforms to the ideas of the particular community and rests easiest upon the members of the group."

The affirmative cited the Capper Bill as one of the sources they used in formulating their proposed plan. They quoted the Capper Bill, yet, Ladies and Gentlemen, you all know that the Capper Bill was pigeon-holed in Washington more than three years ago. That is what public opinion thinks about a uniform na-

tional marriage and divorce law. If such a suggestion met with such pronounced disapproval in just the committee, what would its fate have been in Congress?

The second speaker of the affirmative has submitted a plan for a uniform marriage and divorce law which would be excellent if it were only practicable. It, however, is only a vision because when you try to apply their plan of a uniform federal marriage and divorce law, it fails miserably, because it includes the following prohibitory provisions:

1. The prohibition of the marriage of the socially unfit.
2. Those of diseased minds and bodies.
3. Those of low mentality.
4. Inter-racial marriages.
5. The marriage of paupers.
6. Hasty marriages.
7. The marriage of children.

A uniform law could not include all of these provisions, however, because, if it did, it would be impracticable for the federal government to try to administer so many minute provisions such as these prohibitions would bring up. Therefore, you see that the plan of a uniform marriage and divorce law would be a failure because it would not be practicable. How could the federal government determine who was socially fit to marry, who had a weak mind, or who was a pauper? Under the plan of the affirmative we would have a federal officer in every hamlet, village, and city giving social examinations, physical examinations, financial examinations to

each candidate for the marriage vow. You can judge the practicability of such a plan for yourselves.

Remember that the states are for the most part getting at these difficulties for themselves and also remember that if you take this power away from them you would be destroying state initiative and the spirit of progress in caring for these local social problems.

One of the members of the affirmative also stated that one state does not recognize the validity of a divorce and thus legal entanglements result. Let me call your attention to *Putney's Law Library*, page 100, section 23, on International Law. It states that: "The general rule is that a marriage good where entered into, is good anywhere."

Therefore, we of the negative have shown you that present conditions in the United States do not demand such radical change; second, that national control of marriage and divorce is undesirable; and third, that a uniform marriage and divorce law is impracticable.

### Third Negative Rebuttal, Miss Virginia Tannar Eureka College

The third speaker for the affirmative has contended that their plan for a uniform marriage and divorce law is practicable. In support of that she has advanced four reasons.

One, it would eliminate the evils resulting from the evasion of the law in regard to contracting marriage. Two, it would eliminate the evils caused by evasion of the law in regard to securing a divorce. Three, it would



be a permanent solution to the problem, and, four, it would prevent the threatened dissolution of the American home.

Let me point out just how we of the negative have answered each one of those contentions. In the first place, I have shown in my constructive speech that a uniform provision regarding marriageable age is impossible because of physical, climatic, and educational differences of the sections of our country. The first speaker for the negative has shown you that when parents give consent a law can do nothing about child marriages. No, the proposed legislation would not eliminate the evils resulting from evasion of marriage laws.

In the second place, the evils caused by the evasion of the law in regard to securing a divorce would not be eliminated. The third affirmative speaker has spent much time in decrying the evil of hasty re-marriages after a divorce is secured. She has the cart before the horse. The evil in that case is not the evil of re-marriage, it is the evil of the failure of the first marriage. Let the affirmative propose a plan that will insure successful matrimonial adventures, and that they have not done, for as we have shown, mere uniformity does not remedy existing evils.

In the third place, the affirmative contend that the proposed legislation is practicable because it is permanent. Let me ask you, Ladies and Gentlemen, if practicable does not mean workable? Does permanence mean workableness? On the other hand the very inflexibility of a law may be its very worst feature. Permanence is no security for practicability. Our social customs will

change; a law that would be excellent now would not meet the needs in one hundred years. Because this proposed amendment will be a permanent solution is no reason to believe that it is practicable.

In the last place, the proposed amendment has been called the solution to the threatened dissolution of the American Home. The affirmative have stated that the proposed enactment will prevent this so called threatened dissolution. But just how it would work to do this, just how its many minute provisions would be administered, they have failed to show. On the other hand, is not this threatened dissolution of the American home a result not of the variations in our marriage and divorce laws, but of the changing social position of woman? Woman has come into equal standing with man and because of this the seeming dissolution of the home arises. Can a uniform marriage and divorce law prevent this? Can any law prevent a social change? History has shown us that no law ever has and we have no reason to believe that the amendment that the affirmative has proposed will prove an exception to the rule. A uniform control of marriage and divorce will not prevent the threatened dissolution of the American home, because, first, this "threatened dissolution" exists more in the minds of the affirmative than in actual fact; and secondly, the real problem of marriage and divorce today goes deeper than mere uniformity.

As this debate closes, Ladies and Gentlemen, let me show you just how we of the negative have answered the case of the affirmative point by point.

In the debate this evening the affirmative has based

its case upon three contentions: first, that conditions demand a change in our marriage and divorce laws; second, that the enactment of a uniform law is the way to meet those conditions; and third, that the plan they have offered is a practicable one.

My first colleague has pointed out in answering the first contention that conditions are not as bad as they are painted, that although variation does exist the affirmative can not show enough actual evasion to justify federal action, and let me remind you here, that the affirmative have not cited any actual cases of evasion in serious enough proportions to justify their proposal.

My second colleague has answered the second contention by showing you that a uniform law is undesirable, that state laws are better able to take care of the situation than a uniform law. She has further shown you that a uniform law would not only fail to reach the problem of present conditions, but would cause new evils and added confusion.

Finally, I have shown four ways in which the plan proposed by the affirmative is impracticable. First, a uniform law could not be applied to all the various sections of our country; second, no satisfactory method of enforcing this law can be found; third, it would encumber the federal government beyond its power to administer the law effectively; fourth, similar attempts at uniform national control have not proved satisfactory.

We believe, Ladies and Gentlemen, that the affirmative has failed to show how their plan will overcome

these obstacles to its successful application. Since they have failed to do that, they have not established their case.

Therefore, since conditions do not demand such a radical change in our marriage and divorce laws; since their proposed uniform law is undesirable and since the plan proposed by the affirmative for such a law is impracticable, we of the negative maintain that Congress should not enact a uniform marriage and divorce law.

## UNIFORM MARRIAGE AND DIVORCE LAW

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OF THE UNIVERSITY OF TEXAS

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This volume is intended as a handbook for debaters and for all those interested in literary or debating societies. The one hundred questions for debate are all on present-day subjects and, for the most part, have been tried out by the authors in class work. Under each question are given the main lines of argument, affirmative and negative. These arguments are stated in distinct, concise propositions (usually four each) which cover the issues in the question and which, if proved, will establish the case on one side or the other, the detailed proof of each proposition being left to the individual debater to work out. The arguments on each side are followed by references, selected for the definite purpose of substantiating the proposition as stated.

The following are a few of the questions discussed :

**Are Labor Organizations Beneficial ?**  
**Equal Suffrage**  
**Retention of the Philippines**  
**Government Ownership of Railroads**  
**National Railway Arbitration Board**  
**Employers' Liability for Accident**  
**An International Arbitration Court**  
**Abandonment of the Monroe Doctrine**  
**Disarmament of Nations**  
**Restriction of Foreign Immigration**  
**The Annexation of Mexico**  
**Federal Control of Natural Resources**  
**Free Trade for the United States**  
**Child Labor**  
**Socialism and the Labor Problem**  
**Maintenance of an Increased Navy**  
**Commission Plan of City Government**  
**Fortification of Panama Canal**

# PROS AND CONS

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## **Both Sides of Live Questions Fully Discussed**

This book has stood the test of years and is still in demand. Besides the debates written out in full it contains chapters on How to Organize a Society and Rules for Governing Debates, also a list of Two Hundred and Fifty Questions for Debate.

*Some of the Questions Discussed are :*

Should Cuba Be Annexed to the United States ?

Resolved, That the United States Should Adopt Penny Postage.

Should the Government of the United States Own and Control the Railroads ?

Resolved, That Woman Suffrage Should Be Adopted by an Amendment to the Constitution of the United States.

Resolved, That Tariff for Revenue Only is of Greater Benefit to the People of the United States than a Protective Tariff.

Resolved, That the Government of the United States Should Own and Control the Telephone and Telegraph Systems.

Is Immigration Detrimental to the United States ?

Are Large Department Stores an Injury to the Country ?

Should the President and Senate of the United States Be Elected by Direct Vote of the People ?

Resolved, That Trusts and Monopolies are a Positive Injury to the People Financially.

Resolved, That Cities Should Own and Control All the Public Franchises Now Conferred Upon Corporations.

# QUESTIONS DISCUSSED

IN

## "THE SPEAKER SERIES"

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